IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P. (M) Nos. 1989 and 1990 of 2020

Date of decision: 28.12.2020

1. Cr.M.P. (M) No. 1989 of 2020

Tejinder Kumar. …Petitioner.

Versus

State of Himachal Pradesh. …Respondent.

2. Cr.M.P. (M) No. 1990 of 2020

Onkar Singh. …Petitioner

Versus

State of Himachal Pradesh. …Respondents.

Coram
The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Whether approved for reporting?[1]

For the Petitioner(s): ***Mr.Gobind Korla, Advocate, through Video Conferencing.***

For the Respondent: ***Mr.Desh Raj Thakur, Additional Advocate General, through Video Conferencing.***

Vivek Singh Thakur, Judge (oral)

Fresh status report stands filed, wherein details of circumstances in which case has been registered against the petitioners and they have been arrayed as accused in case FIR No. 155 of 2020, dated 7.10.2020, registered under Sections 21 and 29 of Narcotics Drugs & Psychotropic Substances Act (for short NDPS Act) and Sections 353, 147, 148, 149 and 427 of the Indian Penal Code in Police Station Damtal, District Kangra, H.P., has been narrated.

2. As per status report, petitioners have been arrayed as accused for obstructing the Police personnel from performing their duties while they had arrested main accused Pardeep Kumar in this case under NDPS Act.

Whether the reporters of the local papers may be allowed to see the Judgment? Yes

3. It is the case of the prosecution that petitioners along with others, including one Rahul, had tried to free Pardeep Kumar from the custody of Police illegally and unauthorisedly. As per status report, petitioners and others had also broken windowpanes of the Police vehicle and tried to damage the said vehicle and also attacked Police Officials, whereupon Inspector had waived his service pistol in the air and had warned to fire, whereupon all the boys including the petitioners had run from the spot on their Motorcycles and Scooty etc. Thereafter Pardeep Kumar was taken to Police Station and for the act committed by Rahul and others including petitioners they were also arrayed as accused and Sections 353, 147, 148, 149 and 427 IPC were incorporated in the case. In the aforesaid circumstances, prayer for rejection of bail application has been made in the status report.

4. It is submitted by learned counsel for the petitioners that main accused Pardeep Kumar from whom recovery of contraband has been claimed by the Police has been released on bail and not only this but Rahul who has allegedly committed the offence along with the petitioners and others, has also been released on bail by learned Special Judge vide order dated 26.11.2020 and, therefore, prayer for release of petitioners, on bail is made. He has also placed copy of order dated 26.11.2020 passed by learned Special Judge, on record.

5. It is further submitted by learned counsel for the petitioners that petitioners are ready to furnish local surety also and they undertake to abide by any conditions as deemed fit to be imposed by the Court in case of their enlargement on bail.

6. As per status report, petitioners have joined the investigation and as of now nothing is to be recovered from the

petitioners. Co-accused, alleged to have committed offence of the same degree, also stands released by learned Sessions Judge on bail.

7. In the aforesaid circumstances, I find that no fruitful purpose is going to be served by keeping the petitioners behind the bars at this stage. Accordingly, interim bail granted to them is confirmed and they are directed to be released on bail on furnishing personal bonds in the sum of ₹50,000/- each with one local surety each, as undertaken, in the like amount to the satisfaction of trial Court within two weeks, upon such further conditions as may be deemed fit and proper by the trial Court, including the conditions enumerated hereinafter, so as to ensure the presence of the petitioners at the time of trial:-

(i) That the petitioners shall make themselves available to the police or any other Investigating Agency or Court in the present case as and when required;

(ii) that the petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to Court or to any police officer or tamper with the evidence. They shall not, in any manner, try to overawe or influence or intimidate the prosecution witnesses;

(iii) that they shall not obstruct the smooth progress of the investigation/trial;

(iv) that the petitioners shall not commit the offence similar to the offence to which he is accused or suspected;

(v) that the petitioners shall not misuse their liberty in any manner;

(vi) that the petitioners shall not jump over the bail;

(vii) that they shall keep on informing about the change in address, landline number and/or mobile number, if any, for their availability to Police and/or during trial;

(viii) They shall not leave India without permission of the Court.

8. It will be open to the prosecution to apply for imposing and/or to the trial Court to impose any other condition on the petitioners as deemed necessary in the facts and circumstances of the case and in the interest of justice and thereupon, it will also be open to the trial Court to impose any other or further condition on the petitioners as it may deem necessary in the interest of justice.

9. In case the petitioners violate any conditions imposed upon them, their bail shall be liable to be cancelled. In such eventuality, prosecution may approach the competent Court of law for cancellation of bail, in accordance with law.

10. Learned trial Court is directed to comply with the directions issued by the High Court, vide communication No.HHC.VIG./Misc. Instructions/93-IV.7139 dated 18.03.2013.

11. Observations made in these petitions hereinbefore shall not affect the merits of the case in any manner and are strictly confined for the disposal of the bail application.

12. The petitioners are permitted to produce copy of order downloaded from the High Court website and the trial Court shall not insist for certified copy of the order, however, he may verify the order from the High Court website or otherwise.

The petitions stand disposed of in the aforesaid terms.

(Vivek Singh Thakur),
Judge.

28th December, 2020
(Keshav)