 2024:HHC:15767

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CrMP (M) No. 2799 of 2024 a/w
CrMPs (M) No. 2800, 2803 & 2804 of 2024

Decided on : 23.12.2024

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1. CrMP (M) No. 2799 of 2024
Rishabh Sharma ...Applicant

Versus

State of Himachal Pradesh ...Respondent

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2. CrMP (M) No. 2800 of 2024
Akshay Kumar ...Applicant

Versus

State of Himachal Pradesh ...Respondent

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3. CrMP (M) No. 2803 of 2024
Piyush Tomar ...Applicant

Versus

State of Himachal Pradesh ...Respondent

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4. CrMP (M) No. 2804 of 2024
Gaurav Kumar ...Applicant

Versus

State of Himachal Pradesh ...Respondent

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The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?[1]

For the applicant(s) : Mr. Ashok Sharma, Senior Advocate, with Mr. Vikas Rathore, Mr. Vinod Chauhan and Ms. Anubhuti Sharma, Advocates.

For the respondent(s) : Mr. Mohinder Zharaick, Additional Advocate General, with Ms. Ranjna Patial, Deputy Advocate General, assisted by ASI Rakesh Kumar, I.O., Police Station West, Shimla, H.P.

Virender Singh, Judge. *(Oral)*

The above-titled bail applications are being disposed of by the common order, as, all the seven bail applications have been filed, in the same FIR, i.e. FIR No. 206 of 2024, dated 17th November, 2024, registered under Sections 190, 191 (2), 191 (3), 298, 324 (4), 115 (2), 351 (2), 79, 118 (1) and 118 (2) of the Bharatiya Nyaya Sanhita (hereinafter referred to as 'BNS'), with Police Station West, Shimla, District Shimla, H.P.

2. Apprehending their arrest in the above-noted FIR, these bail applications have been filed by the above-named applicants, under Section 482 of the Bharatiya

[1] *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

Nagarik Suraksha Sanhita (hereinafter referred to as 'BNSS'), for passing a direction, in their favour, directing the Investigating Officer/police of Police Station West, District Shimla, H.P., to release them on bail, in the event of their arrest, in the above-noted FIR.

3. According to the applicants, they are innocent persons and have falsely been implicated, in this case, by the police. They have termed the case of the police, as false and frivolous.

4. The applicants have alleged that the complainants, in the present case, are themselves the trespassers. In addition to this, the applicants have also given the history of the litigation, regarding the property in dispute.

5. As per the applicants, they are ready to abide by any condition(s), to be imposed by this Court, in case, any direction is issued to the police/Investigating Officer, under Section 482 of the BNSS.

6. On the basis of the above facts, the applicants have prayed that the bail applications may kindly be allowed.

7. While issuing notice to the State, interim bail was granted to the applicants, with a direction to the Investigating Officer to release them on bail, in the event of their arrest, subject to furnishing personal bonds in the sum of ₹ 30,000/- each, with one surety each in the like amount, to the satisfaction of the Investigating Officer.

8. On notice, the police has filed the status report, disclosing therein, that on 17th November, 2024, complainants-Vishal Sharma, Mahender Kumar, Harish Kumar and Dharampal Thakur, Trustees of *Brahmo Samaj*, near AG Office, Shimla, moved a complaint, before the police, requesting therein to take action against Tanmahimananda, Ramrupananda, Lalit Verma, Sandeep Kumar, Karan Nanda, Nitin Vyas, Sheetal Vyas and Vinod Aggarwal.

8.1. According to them, a programme on the occasion of 133rd Conference of *Brahmo Samaj* had been planned to be organized in Kali Bari Temple Hall on 15th and 16th November, 2024 and members from all over India had come to attend the same.

8.2. It has been mentioned in the complaint that on 16th November, 2024, at about 5.00 pm, the followers of *Brahmo Samaj* had gone to Temple premises to offer prayers. The said programme continued peacefully from 05.00 – 06.00 pm, and religious ceremonies were also performed. After some time, Sant Tanmahimanand and Ramrupanand entered the premises and started misbehaving with the ladies, who were performing *pooja* there. Due to their act, the religious feelings have been hurt.

8.3. It has been averred by the complainants that despite requests made by the complainants, Tanmahimanand had not permitted them to establish *kalash.* Thereafter, when the followers of *Brahmo Samaj* were peacefully performing their prayers, Swami Tanmahimanand, alongwith his goons, had assembled in the Temple premises. Police was also called there and in the presence of police and administration, Swami Tanmahimanand and Ramrupanand, Lalit Verma, Sandeep, Karan Nanda and Vinod Aggarwal had caused

disturbance in the prayers of the followers of *Brahmo Samaj.*

8.4. According to the complainants, Advocate Sheetal Vyas and her husband Nitin Vyas had also instigated the followers of ABVP, BJP and Bajrang Dal. With the intention to kill the complainants, stones are also stated to have been pelted upon them and they were also attacked with flower pots and sticks. Due to this, ten devotees suffered injuries. Not only this, those persons had also attacked the police, due to which, they had also suffered injuries. In the said process, damage is also stated to have been caused to the Temple.

8.5. It is the further case of the complainants that had the persons from the administration not been there on that day, then, their death was certain. The said incident was also videographed. According to the complainants, the intention of the said persons was to grab the property of *Brahmo Samaj.*

8.6. It is their further case that former DGP Sanjay Kundu had also misbehaved with daughter of Trustee Vishal Sharma and complaint, in this regard, has been

made to SP Shimla, wherein, inquiry was conducted and said Sanjay Kundu was indicted, but, no action has been taken by the police. As such, a request has been made to take action against Sanjay Kundu also.

8.7. On the basis of the earlier incidents of stone pelting, having allegedly been committed by Tanmahimanand, Ramrupanand and Lalit Verma, the daughter of complainant-Vishal Sharma had also lodged the complaint with SP Shimla. Not only this, the electricity connection to the house of complainant-Vishal Sharma is also stated to have been disconnected a number of times, whereas, the water connection was disconnected about three years ago.

8.8. Lastly, according to them, all this has been done with a purpose to make complainant-Vishal Sharma to resign from the Trusteeship, so that, the applicants could take forcible possession of the property of *Brahmo Samaj.*

9. On the basis of the above facts, the police registered the FIR and the criminal machinery swung into motion. During investigation, one Prem Lal had produced

four video clips, in the pen drive, to the police, which were taken into possession. Six photographs of the spot were also submitted to the police, which have also been taken into possession. Relevant documents were also taken into possession. The injured were medico-legally examined.

10. It has been mentioned in the status report that in compliance of the directions of this Court, the applicants have joined the investigation and the physical evidence produced by them was taken into possession.

11. On the basis of the investigation, so conducted till date, the police has submitted that the land in dispute is in the name of *Brahmo Samaj* Community. It has also been found in the investigation that on 16th November, 2024, after the conference, the followers of *Brahma Samaj* had performed the *pooja* and for that, they had taken the permission of Swami Tanmahimanand. Consequently, they had performed *pooja* from 05.00 pm to 08.00 pm. Swami Tanmahimanand and Ramrupanand had performed the *pooja* and also recited *Sunderkand.* When the holy *kalash* was being established, then, Swami Ramrupanand had forcibly removed the *kalash,* due to which, this dispute

had arisen. Police was also there as, they were already deployed there with a direction not to obstruct the movement of any follower of *Brahmo Samaj.*

12. According to the police, it is an incident of religious sacrilege, as, the applicants had hatched a conspiracy and instigated the students belonging to ABVP and committed this incident.

13. It is the further case of the police that *prima facie,* it is a case of land grabbing, but, in order to ascertain, who is the mastermind in the alleged crime, the custodial interrogation of the applicants is required.

14. It has also been apprehended that although, the applicants have joined the investigation, but, they are not disclosing about the other persons, who were allegedly with them, at the time of incident.

15. On the basis of the above facts, a prayer has been made to dismiss the bail applications.

16. Heard.

17. First of all, so far as the apprehensions, which have been expressed by the police, in the status report, according to which, in case, the interim orders are made

absolute, the applicants may hamper the investigation of the case and may also coerce and allure the witnesses not to depose against them, are concerned, for those apprehensions, reasonable conditions can be imposed on the applicants, in case, the interim orders are made absolute.

18. The role allegedly played by the applicants, in the commission of the alleged crime, will be proved during the course of trial. The applicants are to be presumed innocent, till the conclusion of the trial and the bail applications cannot be rejected as a matter of punishment, as, pre-trial punishment is prohibited under the law.

19. Although, it has been mentioned in the status report that the custodial interrogation of the applicants is required, but, merely mentioning this fact, in the status report, is not sufficient, as, it is for the police to make out a case for custodial interrogation, by submitting as to why the custodial interrogation of the applicants is required by the police.

20. The applicants are the permanent residents of Shimla, as such, it cannot be apprehended that in case,

the interim orders are made absolute, they may not be available for the trial.

21. On the basis of the vague averments in the status report, the prayer, so made, by the learned Additional Advocate General, appearing for the State, is too short to decline relief to the applicants. As such, this Court is of the view that the interim orders, dated 10th December, 2024, passed in all these cases, are liable to be made absolute.

22. Consequently, interim orders, dated 10th December, 2024, passed in all these cases, are made absolute, subject to the following conditions:

> *a) That the applicants will join the investigation of the case, as and when, called for, by the Investigating Officer, in accordance with law;*
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> *b) That the applicants will not leave India, without prior permission of the Court;*
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> *c) That the applicants will 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 the Investigating Officer or the Court; and*
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> *d) That the applicants shall regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so seek exemption from appearance by filing appropriate application;*

23. Any of the observations, made hereinabove, shall not be taken as an expression of opinion, on the merits of the case, as these observations, are confined, only, to the disposal of the present bail applications.

24. The applicants are directed to move regular bail applications, when charge sheet will be filed in the Competent Court of Law.

25. It is made clear that the respondent-State is at liberty to move an appropriate application(s), in case, any of the bail conditions, is found to be violated by the applicants.

(Virender Singh)
Judge

December 23, 2024
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