 2024:HHC:16831

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CrMP (M) No. : 2894 of 2024

Decided on : 31.12.2024

Kulveer Singh ...Applicant

Versus

State of Himachal Pradesh and another ...Respondents

Coram

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

Whether approved for reporting?[1]

For the applicant : Mr. K.S. Gill, Advocate.

For the respondents : Mr. Mohinder Zharaick, Mr. H.S. Rawat and Mr. Tejasvi Sharma, Additional Advocates General, assisted by ASI Pardeep Kumar, Women Police Station Dharamshala, District Kangra, H.P., for respondent No. 1.

Mr. Naveen K. Bhardwaj, Advocate, for respondent No. 2 (complainant).

Virender Singh, Judge. *(Oral)*

Applicant-Kulveer Singh has filed the present bail application, 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 his favour, directing the Investigating Officer/police of Women Police Station Dharamshala, District Kangra, to release him on bail, in the event of his arrest, in case FIR No. 40 of 2024, dated 16th December, 2024, registered under Sections 64, 69 and 351 (2) of the Bharatiya Nyaya Sanhita (hereinafter referred to as 'BNS').

2. According to the applicant, he is not involved in the alleged offence and has falsely been roped into the controversy.

3. As per the case of the applicant, he is permanent resident of the address, as mentioned in the bail application and belongs to a respectable family, as such, there is no likelihood of his jumping over the bail.

4. According to the applicant, he is 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.

5. On the basis of the above facts, the applicant has prayed that the bail application may kindly be allowed.

6. On 23rd October, 2024, the complainant/ prosecutrix was ordered to be impleaded as respondent No. 2 and notices were ordered to be issued to both the respondents, with a direction to respondent-State to file the status report.

7. On 20th December, 2024, the complainant has put appearance through her counsel and contested the bail application.

8. Respondent No. 1-State has filed the status report, disclosing therein that on 16th December, 2024, a complaint was received, through e-mail, from SP Office, Dharamshala, wherein, it has been mentioned by the complainant (respondent No. 2) that about 1½ years ago, she got acquaintance with one Kulveer Singh, s/o Satinder Singh, r/o Kiyodiyan, Tehsil Harchakkiyan, District Kangra (applicant), who proposed her for marriage. The complainant agreed to the said proposal.

8.1. As per the complainant, about one year ago, the applicant called her telephonically to Salol market, from where, they went to Kangra. Firstly, they went around in Kangra market and thereafter, the applicant took the

complainant to a hotel in Kangra. Then, he took her to a room by saying that this hotel belongs to his friend and they will serve them food in the room. Subsequently, on the pretext of marrying her, the applicant is stated to have developed physical relations with the complainant, on various occasions.

8.2. According to the complainant, when she asked the applicant about their marriage, he refused to do so and threatened her that in case, she complains about the same, he (applicant) will get her roped in, in some NDPS case, as, he is having connections with higher-ups.

8.3. On the basis of the above facts, a prayer has been made to the police to take action against the applicant, upon which, the police registered the afore-stated FIR and the criminal machinery swung into motion.

8.4. It has been mentioned in the status report, that on 17th December, 2024, the statement of the complainant/victim, was recorded under Section 180 of the BNSS. Her medico-legal examination was also got conducted. The spot was visited and the spot map was got prepared.

9. After perusing the said status report, interim bail was granted to the applicant, with a direction to the Investigating Officer to release him on bail, in the event of his arrest, subject to furnishing bail bonds in the sum of ₹ 30,000/-, with one surety in the like amount, to the satisfaction of the Investigating Officer. The applicant was also directed to appear before the Investigating Officer.

10. As per the status report, filed on 26th December, 2024, in compliance of the directions of this Court, the applicant has joined the investigation.

11. In the status report, filed today, it has been mentioned that the applicant has accepted that he has visited the hotel in Kangra, but, according to him, on the said dates, the complainant/victim was not with him. The applicant was also medico-legally examined.

11.1. As per the said status report, the service providers have been requested to provide CDRs of both, the applicant, as well as, the complainant/victim.

12. On the basis of the above facts, it has been prayed by the learned Additional Advocate General that the bail application may kindly be dismissed.

13. Heard.

14. The role of the applicant, in the commission of the alleged crime, will be proved during the course of trial. The accused (applicant) is to be presumed innocent, till the conclusion of the trial and the bail application cannot be rejected as a matter of punishment, as, pre-trial punishment is prohibited under the law.

15. The applicant is permanent resident of District Kangra, as such, it cannot be apprehended that he may not be available for the trial.

16. Moreover, no apprehension has been expressed by the police, in the status report.

17. Considering the facts that the applicant has joined the investigation and nothing is to be recovered from or at the instance of the applicant, this Court is of the opinion that the police is not able to make out a case for custodial interrogation of the applicant. As such, the interim order, dated 20th December, 2024, is liable to be made absolute.

18. Consequently, interim order, dated 20th December, 2024, is made absolute, subject to the following conditions:

> *a) That the applicant 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 applicant will not leave India, without prior permission of the Court;*
>
> *c) That the applicant 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*
>
> *d) That the applicant 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;*

19. 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 application.

20. The applicant is directed to move regular bail application, when charge sheet will be filed in the Competent Court of Law.

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

(Virender Singh)
Judge

December 31, 2024
(rajni)