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Amar Singh Vs. State of H.P.

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Court : Himachal Pradesh

Decided On : Jul-13-1999

Reported in : 2000CriLJ189

Judge : M.R. Verma, J.

Acts : Indian Forest Act; ;Indian Penal Code (IPC) - Sections 186, 307, 332, 353 and 506; ;Code of Criminal Procedure (CrPC) , 1974 - Section 439

Appeal No. : Cr. M. P. (M) No. 559 of 1999

Appellant : Amar Singh

Respondent : State of H.P.

Advocate for Def. : K.D. Batish, Addl. Adv. General

Advocate for Pet/Ap. : C.B. Barowalia,; S.D. Gill and; Y.P.S. Dhaulta, Advs

Disposition : Application dismissed

Judgement :
ORDER

M.R. Verma, J.

1. Accused-petitioner has moved the present application under Section 439 of the Code of Criminal Procedure praying for his release on bail in case FIR No. 41 of

1999 dated 21-6-1999 under Sections 307, 353, 332, 506 and 186 of the Indian Penal Code registered in Police Station, Chopal. It is claimed that the petitioner at present is in judicial custody and is an innocent person who has wrongly and falsely been implicated in the case due to political rivalry of the rival group of the same area. It is further averred that the offence under Section 307 of the Indian Penal Code is not made out against him, that he is a respectable person of the area and is not likely to flee from justice or repeat the offence and that in case released on bail he will not tamper with the prosecution evidence.

2. I have heard the learned Additional Advocate General and the learned counsel for the accused-petitioner and have also gone through the relevant records.

3. Case of the prosecution in brief is that on 28-3-1999 S.D.M., Chopal Shri B. R. Kaundal reached at Examination Centre at Kupvi at about 2-30 p.m. for the purpose of checking, the moment he opened the window of the vehicle in which he was travelling, to alight therefrom the accused came forward and gave a deadly blow on his head with a sharp edged weapon. However, in the process said B.R. Kaundal caught hold of the arm of the accused which minimised the impact of the blow and but for such intervention the blow could prove fatal. The said SDM was saved by his driver and one Mohan Lal employee in the Tehsil office in Kupvi. The accused thereafter abused and criminally intimidated the SDM and ran away from the spot. At the relevant time and date, Shri Suresh Chand son of the 'accused was also taking the exam of 10 + 2 in the same Examination Centre. The matter was reported to the police and the investigation followed and on investigation the police found that the accused had committed the offences punishable under Sections 307, 186, 332 and 506, IPC.

4. It will not be justified at this stage to examine and scrutinise the evidence in depth. However, a perusal thereof at this stage for the purpose of this application prima facie reveals that the accused-petitioner is prima facie involved in the commission of serious offence punishable with severe punishment. Gravity of the offences and severity of the punishment are the factors which invariably weigh amongst other factors in favour of the refusal of the bail. A perusal of the report submitted by the police and placed on record reveals that even earlier 10 cases of

different nature had been registered against the accused which included the offences under various penal provisions of the Law such as causing bodily hurt, extending threats, cheating, forgery etc. Though most of such cases have been disposed of and he has admittedly been acquitted in four cases and in two cases the offences were compounded resulting in his acquittal. Four cases are still pending trial against him in the Court. Against the aforesaid background, the learned single Judge of this Court had dismissed the anticipatory bail application of the accused-petitioner (Cr. M.P. (M) 226/99) with the following observations :--

From the affidavit filed by the State, it shows that the petitioner from time to time has been involved in one or the other Criminal cases. Even, at present he is facing trial in four cases for the offences under Indian Penal Code, Indian Forest Act, Forgery and Cheating etc. Previously also the petitioner has been involved in assault on public servant. The petitioner appears to be a man of desperate character and I am satisfied that if released on bail there is every likelihood of the petitioner being involved in such similar offences. Therefore, the discretion of bail cannot be exercised in his favour.'

5. The above observations are still relevant and cannot be overlooked or ignored in-as-much-as nothing has been urged on behalf of the petitioner which may lead this Court to take a contrary view as already taken by the learned single Judge.

6. Keeping in view the facts and circumstances of the case and the desperate character of the accused as mentioned here-in-above there is not only the likelihood of his involving in the commission of similar offences but also a strong possibility of his tampering with the prosecution evidence by terrorising the witnesses.

7. The likelihood of his tampering with the prosecution evidence has been highlighted in the police record also. Against the aforesaid background, I do not find the accused entitled for bail at this stage. As a result, this application is dismissed. Police record be returned. Copy dasti.

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