

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CrMP(M) No. 2600 of 2024

Decided on : 27.11.2024

Satish Kumar

...Applicant

Versus

State of Himachal Pradesh

...Respondent

Coram

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

Whether approved for reporting?¹

For the applicant : Mr. Arush Matlotia, Advocate.

For the respondent : Mr. Mohinder Zharaick, Mr. H.S. Rawat and Mr. Tejasvi Sharma, Additional Advocates General, with Ms. Ranjna Patial, Deputy Advocate General.

Virender Singh, Judge. *(Oral)*

Applicant–Satish Kumar has filed the present application, under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), with a prayer to direct the Police/Investigating Officer of Police Station Jawali, District Kangra, H.P., to release him on bail, in the event of his arrest, in FIR No.164 of 2024, dated 30.10.2024, registered under Sections 126(2) and

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

118(2) of the Bharatiya Nayaya Sanhita, 2023 (hereinafter referred to as 'BNS').

2. According to the applicant, he is an innocent person and has nothing to do with the above mentioned offence. The FIR, in question, is fabricated, concocted and without any basis.

3. As per the applicant, he is apprehending his arrested, in a false case, registered at the instance of the complainant, with which, he has no concern, whatsoever.

4. According to the applicant, he is having roots in the society and is having immovable property, as such, there is no likelihood of his fleeing away from justice.

5. On the basis of the above facts, learned counsel for the applicant, has given certain undertakings, on behalf of the applicant, for which, the applicant is ready to abide by, in case, any direction is issued to the Police/Investigating Officer, under Section 482 of the BNSS.

6. The applicant has also tried his luck, by moving the application, under Section 439 Cr.P.C., before the Court of learned Additional Sessions Judge,

Nurpur, District Kangra, however, his bail application bearing No.249 of 2024, has been dismissed vide order dated 19.11.2024.

7. On all these submissions, a prayer has been made to allow the application.

8. When put to notice, the police has filed the status report, disclosing therein that on 30.10.2024, H.C. Sugreev Singh, along with other Police officials, was present at Ashoka Hospital. The Medical Officer, Ashoka Memorial Hospital, has informed the I.O. that a person namely Abhay, has been brought, for treatment, in an injured condition.

8.1. Thereafter, the I.O. has visited the injured, but, the doctor has declared him, unfit for making statement and the injured was referred to Higher Center for treatment, as the injury, received by the injured, was sharp injury. The I.O. has recorded the statement of Vishal, who has brought the injured, for treatment, under Section 173 Cr.PC.

8.2. In the statement, Vishal has disclosed that he is welder by profession. On 30.10.2024, when, he, along with

his friend, was going to their home, then, at about, 7.45 p.m., at Banoli Road, Tishu and his friends, had restrained them to proceed further and started altercation with them. During altercation, Tishu got furious and with the sharp edged weapon, has attacked upon his friend, due to which, he got unconscious. He has prayed that action be taken against Tishu.

8.3. On the basis of the above facts, the FIR, in question, has been registered and the criminal machinery swung into motion.

8.4. It has been mentioned, in the status report, that the spot was identified by Vishal Kumar and photographs of the spot were taken. Spot map was also prepared and evidence was also collected from the spot.

8.5. On 2.11.2024, the statement of the injured was also recorded at RPGMC Tanda, in which, the injured has stated that Satish Kumar @ Tishu (applicant), has given injuries to his stomach, with the help of knife and no other person is involved, in the incident.

8.6. Thereafter, on 05.11.2024, the blood stained shirt has been produced, by the injured, which, was also taken into possession, by the Police.

9. On the basis of the above facts, on 21.11.2024, while issuing notice, interim protection was given to the applicant.

10. In pursuance of the said interim protection, the applicant has joined the investigation on 22.11.2024. He has been arrested and released on bail, as per the directions of this Court. The weapon of offence produced by Satish Kumar (applicant) i.e. knife, has also been taken into possession.

11. In the supplementary status report filed today, i.e., on 25.11.2024, it has been mentioned, by the police, that the knife was produced before the Medical Officer and his opinion was sought, upon which, the Medical Officer has opined that 'injury is possible by this knife/weapon'.

12. On the basis of the above facts, a prayer has been made to dismiss the application.

13. Heard.

14. In the status report(s), filed by the police, it has not been mentioned that the applicant has not co-operated with the investigation or he has not joined the investigation.

15. The role allegedly played by the applicant, in the commission of the alleged crime, will be proved, by the prosecution, during the trial.

16. The Police is not able to make out a case for custodial interrogation of the applicant, as such, there is no legal justification, for this Court, to reject the application, by withdrawing the interim protection, which was given to the applicant, vide order dated 21.11.2024.

17. At the time of deciding the bail application, detailed discussion of the evidence, so collected, by the prosecution or about the defence, which has been taken, by the applicant, should be avoided, as, it would cause prejudice to the case of the prosecution, as well as, to that of the accused.

18. Considering all these facts, the interim order dated 21.11.2024, passed by this Court, is hereby 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;*
- b) *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 application.

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

22. 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 violated by the applicant.

November 27, 2024_(ps) **(Virender Singh)**
Judge

