

**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

Cr.M.P.(M) No.354 of 2021

Reserved on: 19.03.2021

Date of Decision: April 1, 2021

Lekh Ram

...Petitioner.

Versus

State of Himachal Pradesh

...Respondent.

Coram:

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

Whether approved for reporting?¹

For the Petitioner: Mr. Sudhir Thakur, Senior Advocate,
alongwith Mr.Karun Negi, Advocate.

For the Respondent: Mr.Gaurav Sharma, Deputy Advocate
General.

Vivek Singh Thakur, J (Oral)

By way of this petition, petitioner is seeking regular bail under Section 439 Code of Criminal Procedure (in short 'Cr.P.C.'), in case FIR No.9 of 2021, dated 07.02.2021, registered in Police Station Arki, District Solan, H.P., under Sections 341, 323, 324, 325, 307 and 506 of the Indian Penal Code (hereinafter referred to as 'IPC' in short).

2. Status report stands filed, wherein it is stated that on 07.02.2021, complainant Pooja Devi had telephonically informed Police Chowki Sarli that petitioner-accused had beaten her and

1 Whether reporters of the local papers may be allowed to see the judgment?

her father-in-law Rajinder, whereupon, police party had rushed to the spot and statement of Pooja Devi was recorded under Section 154 Cr.P.C.

3. In her statement, complainant has stated that on 07.02.2021 at about 3.00 p.m. she alongwith her father-in-law and 8 years old daughter had been working in the fields and in a water channel, located adjacent to their fields, water was flowing and her daughter had filled up two small Favwara (fountain pots) with water twice and poured the water in the fields. At about 4.00 p.m. petitioner-accused came to the fields of complainant and said that on that day it was his turn for irrigation and why water was utilized by complainant party from the water channel. Whereupon, complainant had explained that her daughter had taken little water for playing, but petitioner-accused, out of anger, had hit on her neck and head with iron spade and when complainant tried to run to save her, petitioner-accused had beaten her after restraining her and during this quarrel, her clothes were torn and when her father-in-law tried to save her, he was also hit by petitioner-accused with spade causing injuries on his left arm, head and other parts of the body. According to complainant, thereafter petitioner-accused had gone towards his own fields, but extending threats to kill the complainant and her family.

4. After registration of FIR, investigation was started. During investigation, complainant and her father-in-law were subjected to medical examination, whereupon, Medical Officer,

with respect to injuries received by father-in-law of complainant, had opined that injury No.2 was grievous in nature. Whereas, injury No.3 was grievous as well as dangerous to life. Whereupon, Sections 324, 325 and 307 of IPC were also added in the FIR and on 16.02.2021 at about 7.30 p.m. petitioner-accused was arrested and after remaining three days in police custody, he has been sent for judicial custody on 19.02.2021.

5. It is submitted on behalf of petitioner-accused that investigation in the case is almost complete and petitioner-accused, after remaining in police custody, is now in judicial custody and is no further required by the police for interrogation for the purpose of investigation and nothing is to be recovered from him. According to learned counsel for petitioner, complainant party was wrong, who had interrupted the water infringing the rights of irrigation of the petitioner-accused and injuries found on the body of complainant party have not been inflicted by the petitioner-accused, but have been received by them during quarrel on the spot while running from the spot. It is further submitted that petitioner-accused has been arrested after opinion of the Doctor that injury No.3 is grievous and dangerous to life. However, as a matter of fact, from the date of incident i.e. 07.02.2021 till 16.02.2021, there was no such allegation on the part of the complainant that petitioner-accused was having intention to kill the injured. It is further stated that even if statement of complainant is taken to be true as it is then

also, there is no iota of substance in the said statement so as to construe intention of petitioner-accused to kill the injured.

6. Lastly, it is submitted on behalf of petitioner that petitioner-accused is permanent resident of the same village and having roots in the society and is ready to abide by any condition imposed by the Court at the time of enlarging him on bail to ensure his presence during trial.

7. Considering entire facts and circumstances of the case and also period of detention, I am of the opinion that at this stage, petitioner-accused is entitled for bail.

8. Accordingly, petition is allowed and petitioner is ordered to be released on bail in case FIR No.9 of 2021 dated 07.02.2021, registered in Police Station Arki, District Solan, H.P., on his furnishing personal bond in the sum of ₹50,000/- with one surety in the like amount, to the satisfaction of the trial Court, within two weeks from today, 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 petitioner/accused at the time of trial and also subject to following conditions:-

- (i) That the petitioner shall make himself available to the police or any other Investigating Agency or Court in the present case as and when required;
- (ii) that the petitioner 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 from disclosing such facts to Court or to any police officer or tamper with the evidence.

- He shall not, in any manner, try to overawe or influence or intimidate the prosecution witnesses;
- (iii) that the petitioner shall not obstruct the smooth progress of the investigation/trial;
 - (iv) that the petitioner shall not commit the offence similar to the offence to which she is accused or suspected;
 - (v) that the petitioner shall not misuse his liberty in any manner;
 - (vi) that the petitioner shall not jump over the bail;
 - (vii) that in case petitioner indulge in repetition of similar offence(s) then, his bail shall be liable to be cancelled on taking appropriate steps by prosecution; and
 - (viii) that the petitioner shall not leave the territory of India without prior information.
 - (ix) that the petitioner shall inform the Police/Court his contact number and shall keep on informing about change in address and contact number, if any, in future.

9. It will be open to the prosecution to apply for imposing and/or to the trial Court to impose any other condition on the petitioner 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 petitioner as it may deem necessary in the interest of justice.

10. In case the petitioner violates any condition imposed upon him, his 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.

11. 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.

12. Observations made in this petition hereinbefore, shall not affect the merits of the case in any manner and are strictly confined for the disposal of the bail application.

13. Petition is disposed of in aforesaid terms.

14. Copy dasti.

15. Petitioner is permitted to produce a copy of this judgment, downloaded from the web-page of the High Court of Himachal Pradesh, before the authorities concerned, and the said authorities shall not insist for production of a certified copy.

(Vivek Singh Thakur),
Judge.

April 1, 2021
(Purohit)