

Vishal Sharma Vs. State (BA-2491-2021)

Present: Sh. Bhupinder Ghai Advocate for applicant

Application presented today. It be registered. Copy of order of Hon'ble High Court dated 12.10.2021 has been attached with the file. Whereby it is directed that if petitioner surrender before the Trial Court and applies for regular bail, Ld. Trial Court shall endeavour to dispose off the same expeditiously and preferably on the same day. Notice of the same be issued to State-respondent. Record be also summon for afternoon.

Date of Order: 18.10.2021
Neeraj

(Sandeep Kumar Singla)
ADJ/SAS Nagar
UID NO . PB0118

Vishal Sharma Vs. State (BA-2491-2021)

Present: Sh. Bhupinder Ghai Advocate for applicant
Sh. Rakesh Goyal, Ld. PP for State alongwith SI Lakhvir Singh
Sh. C.S. Bawa Advocate for complainant

File has been taken up afternoon. Sh. Rakesh Goyal, Ld. PP has put in appearance on behalf of State-respondent with ASI Lakhvir Singh. Sh. C.S. Bawa Advocate has put in appearance on behalf of complainant.

The prosecution through DSP Deepak Rai has filed an application for permission to arrest the accused. Heard. Applicant is allowed to be arrested in this case.

Ld. Counsel for complainant has filed an application for adjournment, alleging that there are serious allegations against the applicant and recoveries are still pending. The prosecution is also filed an

application seeking three days police remand of the accused/applicant.

Heard. Ld. Counsel for applicant argued that after such long time no ground for police remand is made out. Applicant is not even named in the FIR. He is referred to ***Cr.M.P(M) No. 1116 of 2020 along with Cr.M.P.M Nos. 1138-1144, 1184, 1268-1270, 1301, 1333, 1444, 1445, 1563 & 1592 of 2020. titled as “Ami Chand V. State of Himachal Pradesh (H.P.) : Law Finder Doc ID # 1742080, decided on 14.09.2020.*** where it has been held that custody is sine qua non for considering bail application under SC/ST (Prevention of Atrocities) Act. It has been held that if the applicant surrenders and seeks interim bail, then same should be considered by the Court also deemed custody.

Ld. PP for State argued that custodial interrogation of applicant is required as weapons of offence are to be recovered and some unknown persons are still to be identified and identification of the applicant is also to be verified.

Now as far as citation referred by Ld. Counsel for applicant is concerned, the Court is required to accept the surrender application of the accused which has already been done. As far as grant of interim bail is concerned, the applicant had surrendered in the morning and notice was given to I.O. of who has filed application for his arrest and seeking police remand. Though, the case is of the year 2016 and accused is not nominated in the FIR. He was nominated on the next day in the statement of injured Ajaib Singh. Though in the statement of Ajaib Singh had mentioned the name of applicant as Vishal @ Gattu, it is assertion of prosecution that he is same person. Thus, identity of applicant is to be

verified. There were as many as 30-35 persons were carrying weapons. Police needs reasonable time to interrogate the applicant. Though, Hon'ble High Court vide its order dated 12.10.2021 has directed this Court to make endeavour to dispose off the application expeditiously and preferably on the very day when such application is filed, but in view of the circumstances as mentioned above, the custodial interrogation of applicant is very much required. Thus, he is remanded to police custody till 19.10.2021. Bail application filed by the applicant Vishal Sharma is adjourned to and will be heard on 19.10.2021.

Date of Order: 18.10.2021
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