

Ram Prakash @ Moni Vs. Bhavak Prashar and connected matter.

Cr. Appeal No. 46 of 2019 with Cr. Appeal No. 283 of 2019

Cr. Appeal No. 46 of 2019

17.3.2023

Present: Mr.Vivek Sharma, Advocate, for the appellant.

Mr.Arun Kaushal, Advocate, for respondent No. 1.

Mr.Vivek Singh Attri, Advocate, for respondents No. 2 and 3.

Ms.Mamta K. Bhatwan, Advocate, for respondent No. 4.

Mr.Harinder Singh Rawat, Additional Advocate General, for respondent No. 5.

Cr. Appeal No. 283 of 2019

Mr.Harinder Singh Rawat, Additional Advocate General, for the appellant.

Mr.Arun Kaushal, Advocate, for respondent No. 1.

Mr.Vivek Singh Attri, Advocate, for respondents No. 2 and 3.

Ms.Mamta K. Bhatwan, Advocate, for respondent No. 4.

Cr.MP No. 823 and 824 of 2023 in Cr. Appeal No. 46 of 2019

Cr.MP No. 821 and 822 of 2023 in Cr. Appeal No. 283 of 2019

These applications have been filed for enlarging the applicants/respondents No. 2 and 3 Sujay Dass and Raja Vishwas (in both the appeals) on bail during pendency of the appeals.

Main matters are appeals preferred against acquittal of applicants/respondents alongwith others vide

judgment dated 17.11.2018 passed in Sessions Trial No. 39 of 2015, titled as State of H.P. Vs. Bhavak Prashar and others arising out of case FIR No. 273 of 2014, dated 19.9.2014, registered in Police Station Sadar, Una, District Una, H.P.

Applicants could not be served despite issuance ofailable warrants since March, 2019. Resultantly nonailable warrants were issued against them vide order dated 4.1.2023 for ensuring their presence. In execution of said order/nonailable warrants, applicants were produced in the Court yesterday (16.3.2023) and they expressed their inability to furnish surety bonds for enlarging them on bail and, therefore, they were sent in judicial custody.

Today applicants/respondents No. 2 and 3 have been produced in custody of HC Vikesh No. 124, Constable Santosh No. 488, Constable Mahaveer No. 860, under the supervision of HASI Shakti No. 1672, Police Line, Kaithu.

It has been submitted by learned counsel appearing for applicants/respondents No. 2 and 3 that during trial they never tried to flee from justice, but made themselves available till conclusion of trial and after their acquittal they are earning their livelihood at their native place District South 24 Pargana in West Bengal and they were not having any knowledge about filing of present appeals, as they have never been served in this appeal. It has been submitted that had applicants/respondents No. 2 and 3 any knowledge of filing appeal, then they would have definitely attended the Court in

furtherance to the notice/warrants issued to ensure their presence.

It has been further submitted that applicants are ready to furnish personal bonds and, surety bonds to the satisfaction of the Court to ensure their presence during the pendency of appeal as and when required and to surrender before the Court for execution of any order in case appeal is allowed. It has been further submitted that applicants are sole bread earners of the family and they never flouted any condition of bail during trial and they undertake to abide by orders passed by this Court in present appeal and presumption of innocence in their favour has been fortified by their acquittal in the trial and in these circumstances no fruitful purpose is going to be served by keeping them in judicial custody during pendency of appeal, hearing whereof may take considerable long time.

Taking into consideration past record as well as submissions submitted by learned counsel and averments in the applications, applicants/respondents No. 2 and 3 are ordered to be enlarged on bail on furnishing personal bonds in the sum of ₹50,000/- each with one surety each in the like amount in each case to the satisfaction of Registrar (Judicial)/Additional Registrar (Judicial) during the course of the day. In case bonds are furnished by them during the course of the day, they shall be enlarged on bail, failing which they

shall be committed to judicial custody in Sub Jail, Kaithu till further orders.

The applications stand disposed of.

***(Vivek Singh Thakur),
Judge.***

17th March, 2023
(Keshav)

