

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

AB No. 1 of 2020

Smt. Moirangthem (N) Lourembam (O) Bijayenti Devi, aged about 46 years, W/o L. Borris Singh of Wangkhei Lourembam Leirak, P.O. Imphal & P.S. Porompat, Imphal East District, Manipur- 795001.

... Accused Person/Petitioner

- Versus -

1. The State of Manipur represented by the Principal Secretary (Home), Govt. of Manipur Old Secretariat (South Block), P.O. & P.S. Imphal, Imphal West District, Manipur- 795001.
2. The Director General of Police, Babupara Manipur Police Complex P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
3. The Superintendent of Police, Imphal East, Porompat Police Station, P.O. & P.S. Porompat, Imphal East District, Manipur- 795005.
4. The Officer-in-charge, Porompat Police Station, Imphal East Police Station Complex, P.O. & P.S. Porompat, Imphal East District, Manipur- 795005.

... Official Respondents

B E F O R E

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the petitioner	:	Mr. N. Jotendro, Sr. Advocate,
For the respondent	:	Mr. H. Samarjit, P.P.
Date of Hearing	:	28.04.2023
Date of Judgment & Order	:	05.06.2023

JUDGMENT & ORDER

[1] Heard Mr. N. Jotendro, learned senior counsel assisted by Mr. Syed Murtaza Ahmed, learned counsel for the petitioner; and Mr. H. Samarjit, learned PP for the State respondents.

[2] By the present application under Section 438 of Cr.P.C., the petitioner approached this Court for granting pre-arrest bail in connection with FIR No. 330(11)2019/PRT-PS U/S 506/420/34 IPC. Vide order dated 14.11.2019 in Cril.Misc.(AB) Case No. 82 of 2019, the learned Sessions Judge, Imphal East gave interim protection to the petitioner in an application under Section 438 Cr.P.C. in the same F.I.R. and vide impugned order dated 31.12.2019, the bail application was rejected on the ground that custodial interrogation of the petitioner was required and vacated the interim protection. Vide order dated 06.01.2020, this Court issued notice to the respondents and gave interim protection to the petitioner and the interim order has been extended from time to time.

[3] Brief facts of the case is that one Heisnam ongbi Ronita Devi came to the residence of the petitioner along with petitioner's cousin R.K. Nanao Devi in the month of May, 2017, requesting to borrow some money from her and she gave Rs. 1,00,000/- (Rupees one lakh). Thereafter, Heisnam ongbi Ronita Devi came on visiting to the house of the petitioner and borrowed another sum of Rs. 1,75,000/- (Rupees one lakh seventy five thousand) in the month of December, 2017. Thereafter, Ronita also borrowed another Rs. 50,000/- (Rupees fifty thousand) in the month of March, 2018. The petitioner gave all money in good faith that Ronita Devi would return the same as her husband was working in Manipur Tribal Development Corporation. Smt. Ronita

Devi also borrowed some gold ornaments from the petitioner with an assurance to return the same after using the same in the marriage function of her relative. In the month of December, 2018, Ronita Devi also borrowed a sum of Rs. 75,000/- (Rupees seventy five thousand). Altogether, Smt. Ronita Devi took a sum of Rs. 4,00,000/- (Rupees four lakh) along with gold ornaments and the petitioner was waiting with a hope of returning the money and gold ornaments. On 26.01.2019, the petitioner found one advertisement published in local paper that Heisnam Ongbi Ronita Devi was missing from the quarter w.e.f. 20.01.2019. Then the petitioner lodged a complaint on 02.02.2019 against Heisnam ongbi Ronita Devi in Porompat Police Station for offence of cheating and the same was registered as FIR No. 38(2) 2019 PRT-PS U/S 380 IPC. Later on, Ronita Devi, was arrested by the police.

[4] While this Heisnam ongbi Ronita Devi was in police custody, one Laishram Ongbi Sushma Devi, who is the neighbor of the petitioner and the owner of a gold jewellery shop made a complaint against the petitioner and Heisnam ongbi Ronita Devi. Sushma Devi reported to the Porompat Police Station stating that from 02.09.2018 till 30.10.2018, one Moirangthem Ningol Lourembam Ongbi Bijenti Devi (petitioner in the present case) and her friend, Mrs. Heisnam ongbi Ronita Devi came to her jewelry shop at Wangkhei Yonlan Leirak and took gold ornaments on different dates and times after promising that the sale proceed of the same would be given to her in time. All the necessary receipts were made in the name of Bijenti Devi, the petitioner herein. Smt. Sushma Devi went to the residence of Smt. Bijenti several times and requested her and her family members to refund the gold ornaments or refund the equivalent value. However, Bijenti and her family member threatened the complainant (Sushma) and her family member with dire consequences. Accordingly,

FIR No. 330(11)2019/PRT-PS U/S 506/420/34 IPC was registered against Smt. Bijenti Devi (petitioner herein) and Mrs. Ronita Devi.

[5] The petitioner herein approached the learned Sessions Judge, Imphal East, by way of an application for granting anticipatory bail under Section 438 Cr.P.C. and vide order dated 14.11.2019 in Cril.Misc. (AB) Case No. 82 of 2019, interim bail was granted to the petitioner (Bijenti). However, Vide order dated 31.12.2019, the bail application was rejected and the interim order was vacated on the ground that the receipts of the gold ornaments were issued in the name of the petitioner herein (Bijenti) and the custodial interrogation of the petitioner was required to find out the true facts of the present case. Thereafter, the petitioner approached this Court by way of an application under Section 438 Cr.P.C. and vide order dated 06.01.2020 in AB No. 1 of 2020, this Court granted interim bail to the petitioner and the interim order has been extended from time to time.

[6] Heard learned counsel for the parties and perused the materials on record and the original case record submitted by the prosecution.

[7] Mr. N. Jotendro, learned senior counsel, has submitted that the petitioner is suffering from ailment related to heart and hypertension and she has been taking treatment and annexed relevant medical records. She is also running a restaurant at Nagamapal in the name of Tasty Taste. The petitioner has been falsely implicated in the present FIR by the complainant and her brother-in-law, who is police personnel by making various receipts in her name. It is stated that Mrs. Heisnam ongbi Ronita Devi was arrested from Ukhrul area on the complaint and effort by the present petitioner and after the arrest of Ronita Devi, another false complaint was filed against

the petitioner and Ronita for allegedly taking gold ornaments from the present complainant Sushma. It is stated that since the bail application of the petitioner was rejected by the learned Sessions Judge, Imphal East, there was no alternative other than approaching this Court mainly on the ground that the petitioner had not committed any offence and she was falsely implicated in the present case. Mr. N. Jotendro, learned senior counsel, also refers to the additional affidavit dated 08.10.2021 to highlight that the petitioner appeared before the Investigating Officer, Porompat Police Station on 07.09.2021 and her statement was recorded. A geo-tagged photograph of the petitioner appearing before the I.O. Porompat Police Station on 07.09.2021 at 09.01 a.m. is annexed along with the additional affidavit. It is also submitted that FIR was lodged in the year 2019 and the petitioner is on interim bail since then and there is no allegation of violation of any bail conditions and also her statement has already been recorded. It is prayed that the interim bail may be made absolute.

[8] Mr. H. Samarjit, learned PP for the State, relying on the counter affidavit filed by the respondents, submits that the petitioner Bijenti, took the gold ornaments from the complainant Sushma and sold gold ornament and did not pay the actual costs of the ornament to the complainant. It is also stated in the counter affidavit that the co-accused Ronita, disclosed that Bijenti might have used some of the sale proceeds which she had given to Bijenti for payment Sushma. Mr. H. Samarjit, learned PP, points out that since the receipts were issued in the name of the petitioner Bijenti, learned Sessions Judge had rightly rejected the bail application as custodial interrogation was required to discover the whole fact of the case. Since the recovery of the gold ornaments is to be made, learned PP prays that the bail application may be rejected.

[9] On perusal of the case record and also original record, it is seen that the petitioner herein Smt. Bijenti Devi, lodged an FIR being FIR No. 38(2) 2019 PRT-PS under Section 380 IPC against Heisnam Ronita Devi, for not returning money taken on loan by her and also misappropriating the gold ornament. Both Bijenti Devi and Ronita Devi, are co-accused in the subsequent FIR No. 330(11)2019/PRT-PS U/S 506/420/34 IPC lodged by Sushma Devi. It is seen from the record that these 3 ladies are involved in some sort of money lending and also sale of the gold ornaments. When Ronita Devi allegedly made default in the payment, these two FIRs were subsequently registered. Mrs. Ronita was arrested in FIR No. 38(2) 2019 PRT-PS lodged by the petitioner herein (Bijenti), and Ronita was also formally arrested in FIR No. 330(11)2019/PRT-PS lodged by Sushma Devi. As per the statement of Sushma, both Bijenti and Ronita came to her jewelry shop and took a number of gold ornaments on different dates and time from 02.09.2018 till 30.10.2018 with promise that after selling the gold ornaments, the sale proceeds would be given to her. But the accused failed to do the same. The receipts were issued in the name of Bijenti Devi. As per the statement of Ronita Devi, she she and Bijenti had business relationship and both of them took gold ornaments from Sushma and problem arose when she could not return the full amount of the gold taken from Sushma. As per the statement of Bijenti given before the IO, it is stated that she and Ronita took gold ornaments from Sushma for selling with a promise to pay the sale proceeds. The gold ornaments were sold by Ronita to the customers and she had paid all money to Sushma. Later on, Ronita never turned up and Bijenti lodged FIR No. 38(2) 2019 PRT-PS.

[10] From the record, it is clear that the two FIRs arise out of the mutual borrowing of money and sale of gold ornaments and the failure to repay the cost to

the complainant Sushma by the petitioner and the co-accused Ronita. The counter allegations in the two FIRs are to be established during the course of investigation and the allegations have arisen out of the business transactions between these 3 persons. The petitioner (Bijenti) is throughout on interim bail from the learned Sessions Judge, Imphal East, as well as from this Court. In absence of any allegation of violating the bail conditions and also the fact of recording of her statement before the IO after getting interim protection, this Court is of the view that custodial interrogation of the petitioner is not required at this stage for a case registered in 2019. There is not much progress in the investigation. Accordingly, bail application is allowed. No costs.

[11] It is directed that in case of arrest of the petitioner, she shall be released on bail bond of Rs. 20,000/- with a surety of like amount to the satisfaction of the arresting authority on the condition that:

- (a) The petitioner shall furnish personal bond of Rs. 20,000/- (Rupees Twenty Thousand) with one surety of the like amount.
- (b) The petitioner shall co-operate with the investigation.
- (c) The petitioner shall not tamper with the evidence or influence witnesses.
- (d) The petitioner shall not leave Manipur without permission of Ld. Sessions Judge, Imphal East.
- (e) On breach of any of the aforesaid conditions, the respondents are entitled to take appropriate action against the petitioner in accordance with law.

[12] Returned the case record along with a copy of this order. Send a copy of this order to learned Sessions Judge, Imphal East for information.

JUDGE

FR/NFR

Indrajeet