

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

AB No. 13 of 2022

Ningombam Amitkumar Singh, aged about 39 years, S/o N. Momon Singh, resident of Thoubal Ningombam near EGF School Boarding, P.O. & P.S. Thoubal, Thoubal District, Manipur-794138.

..... Petitioner/s

- Versus -

The Officer-in-Charge, Thoubal Police Station, Thoubal District, Manipur-795138.

.....Respondent/s

with

AB No. 14 of 2022

Athokpam Sanjit Kumar, aged about 39 years, S/o Athokpam Borjao Singh, resident of Thoubal Ningombam Mayai Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur-795138.

.....Petitioner

-VS-

The Officer-in-Charge, Thoubal Police Station, Thoubal District, Manipur-795138.

.....Respondent

with

AB No. 15 of 2022

Md. Atikur Rahaman, aged about 41 years, S/o Md. Badarul, resident of Thoubal Moijing, Thoubal Mayum Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur-795138.

....Petitioner

-VS-

The Officer-in-Charge, Thoubal Police Station, Thoubal District, Manipur-795138.

.....Respondent

B E F O R E
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the petitioner	::	Mr. N. Ibotombi, Sr. Advocate assisted by Mr. A. Rommel, Advocate.
For the respondents	::	Mr. H. Samarjit, PP for the State.
Date of hearing	::	03.04.2023
Date of Judgment and Order	::	11.04.2023

JUDGMENT AND ORDER (CAV)

[1] A compliant dated 12.02.2022 was lodged by one Smt. L (O) Tombi Devi to the Officer-in-Charge, Thoubal Police Station, Thoubal praying for taking up necessary action against Shri Ningombam Gojendro Singh for attempt to murder under Section 304 IPC. It is stated that on 11.02.2022 at about 8:00 pm, a team led by Shri N. Gojendro Singh and his followers beaten her husband, namely Shri L. Suren Singh with an attempt to murder him and he was hospitalised. The complaint reads as under:

“To,

*The Officer-in-Charge,
Thoubal Police Station, Thoubal.*

*Subject: Prayer for taking up necessary action against
Shri Ningombam Gojendro Singh S/o (L) N. Ibomcha
Singh of Thoubal Ningombam for attempt to murder
under Section 307 IPC.*

Sir,

*I the undersigned wife of Shri Loitongbam Suren Singh
S/o Shri L. Ibopishak Singh of Thoubal Achouba have the
honour to state that:*

*1. My husband named Shri L. Suren Singh went to
meet my sister in law (sister of my husband) who is*

staying at Thoubal Ningombam Utha on 11.02.2022 at 8:00 am regarding family matter. As my sister in law was joining to a meeting of women group held at Community Hall, Thoubal Utha Leirak Ningombam, my husband was also went there at to meet his sister named Smt. L. Chanda Devi W/o Ningombam Hemat Singh an habitant of Thoubal Ningombam Utha.

While he was meeting with his sister suddenly Shri N. Gojendro Singh and follower name:

- 1. Md. Atiqur @ Huk S/o Md. Badur serving in police department as constable of Thoubal Moijing.*
- 2. N. Alexander Singh S/o N. Achouba Singh serving in Police Department as constable of Thoubal Ningombam.*
- 3. N. Amitkumar Singh S/o N. Momon Singh of Thoubal Ningombam.*
- 4. A. Sanjitkumar @ Khun S/o A. Borjao Singh of Thoubal Ningombam.*

beat my husband seriously attempt to murder him. He was hospitalised instantly by a team of local youths led by A. Ingocha Singh to District Hospital, Thoubal to save his life.

The team of Shri N. Gojendro Singh used short and long arms at the time to attack my husband.

Taking all these aspects into considerations, I am therefore to request you kindly arrest Shri N. Gojendro Singh and his armed followers under Section 304 IPC not to happen such incident further.

Enclosed:-Hospitalisation report.

Dated: 12.02.2022

Yours faithfully

*(Smt. L (O) Tombi Devi) 60
years W/o L. Suren Singh
Thoubal Achouba
9856772429”*

[2] Accordingly, FIR No. 13(2)2022 TBL-PS U/S 325/307/34 IPC & 27(1) A Act was registered against the 5 (five) accused, namely (1) N. Gojendro Singh, (2) Md. Atiqur @ Huk S/o Md. Badur serving in police department as constable of Thoubal Moijing, (3) N. Alexander Singh S/o N. Achouba Singh serving in Police Department as constable of Thoubal Ningombam, (4) N. Amitkumar Singh S/o N. Momon Singh of Thoubal Ningombam and (5) A. Sanjitkumar @ Khun S/o A. Borjao Singh of Thoubal Ningombam.

Accused No. 1, namely Shri N. Gojendro Singh and accused No. 3, namely Shri N. Alexander Singh were arrested by the police and produced before the Duty Magistrate, Thoubal.

[3] Vide order dated 13.02.2022, the accused No. 1 and accused No. 3 were released on bail by the Ld. Duty Magistrate on the ground that there were no materials in the remand prayer to attract Section 307 IPC and the remaining offences were bailable. Thereafter, accused No. 2, namely Md. Atiqur @ Huk by way of application being Cril.Misc.Case(AB) No. 16 of 2022 and accused No. 4, namely N. Amitkumar Singh, by way of Cril.Misc.Case(AB) No. 17 of 2022 and accused No. 5, namely Sanjitkumar @ Khun, by way of Cril.Misc.Case(AB) No. 18 of 2022 approached Ld.

Sessions Judge, Thoubal praying for anticipatory bail under Section 438 Cr.PC.

[4] Vide separate and similar orders dated 19.02.2022 in Cril.Misc.Case(AB) No. 16 of 2022, order dated 21.02.2022 in Cril.Misc.Case(AB) No. 17 of 2022 and order dated 21.02.2022 in Cril.Misc.Case(AB) No. 18 of 2022, the Sessions Judge, Thoubal rejected all the three anticipatory bail applications on the ground that offence under Section 325 IPC is bailable and no offence under Section 307 IPC and Section 27(1) Arms Act are made out and there is no reasonable grounds to grant protection to the petitioner. The relevant portion is reproduced herein below:

“Another contention that offences U/S 307 IPC and S. 27 (1) Arms Act are not made out can be looked from a different angle. Further, there is no pleading that the Police have come in search of him so as to arrest him. Again, the petitioner has stated in Para No. 7 that following Arnesh Kumar-vs-State of Bihar (2014) 8 SCC 273 that police do not arrest accused unnecessary. Hence, the non searching of the accused to arrest him.

As stated by the Ld. counsel for the petitioner that S. 325 is bailable and no offence U/S 307 IPC and S. 27(1) Arms act is made out, there are no reasonable grounds to grant protection to the petitioner. His only story on side of his story is that he was not present at the time of the incident. He has not stated where he was present at that relevant time.

In these circumstances, the present application is rejected.”

[5] By way of the present applications, the petitioners approached this Court for granting anticipatory bail. It is stated that 2 (two) accused

persons who were arrested on 13.02.2023 i.e. accused No. 1, Ningombam Gojendro Singh and accused No. 3, Ningombam Alexander Singh were released by the Ld. Duty Magistrate, Thoubal as no offence under Section 307 IPC was attracted. The petitioners, i.e. accused Nos. 2, 4 and 5, approached the Court of Ld. Sessions Judge for grant of anticipatory bail fearing their arrest as done in accused Nos. 1 and 3. The bail applications of the petitioners were rejected by separate and similar orders on the ground that offence under Section 307 IPC and Section 27(1) Arms Act were not attracted. There were apprehensions of the petitioners that they would be arrested by the police in connection with the FIR as done with the co-accused, i.e. accused Nos. 1 & 3. It is stated that they will abide by any condition as imposed by this Court.

[6] Common objection has been filed by the Officer-in-Charge, Thoubal Police Station where it is stated that the injury suffered by the husband of the complainant is simple. It is also stated that 2 (two) license guns were released on Zima by the Ld. CJM, Thoubal. Moreover, it is stated that a copy of the bail application is not received and thus ground for AB is not known. It is prayed that the bail application may be rejected.

[7] Heard Mr. N. Ibotombi, learned senior counsel assisted by Mr. A. Rommel, learned counsel for the petitioner and Mr. H. Samarjit, learned PP for the State respondent.

[8] Mr. N. Ibotombi, learned senior counsel for the petitioners, submits that this case is arising out during the election period and is

fabricated one and due to enmity. There is no substance in the matter. Accused No. 1 and accused No. 3 were released by the Duty Magistrate, Thoubal rejecting the prayer for police remand on the ground that there was no material to attract Section 307 IPC. The injury report as filed by the police report is simple and as such, in any case, the offence under Section 307 IPC is not attracted. If that be the case, Mr. N. Ibotombi, learned senior counsel, submits that the petitioners ought to be granted anticipatory bail by the Ld. Special Sessions Judge, Thoubal. Otherwise, they are liable to be arrested at any time in connection with the FIR, where there is no material against them. He prays that application be allowed.

[9] Mr. H. Samarjit, learned PP for the State respondent, submits that there is serious allegation against the petitioners and the sufficiency/adequacy material against the petitioners are to be considered at the time of charge hearing and during the trial and the same cannot be considered in a bail application. The offence of attempt to murder does not require sustaining severe injury in all the cases. There are circumstances where the offence of attempt to murder is attracted without any injury and he prays that bail applications may be rejected.

[10] Considered the rival submissions of the learned counsel for the parties and perused the materials available on record.

[11] It is seen that the main accused named in the complaint by the complainant and another accused had already been released by the Duty Magistrate and even prayer for police remand was rejected as

materials under Section 307 IPC were lacking. However, in the impugned order, the Ld. Sessions Judge, Thoubal rejected the bail applications with the observation that no offence under Section 307 IPC and Section 27(1) Arms Act were made out. In such situation, the petitioners are liable to be arrested at any time in the present FIR when both the Ld. Duty Magistrate as well as the Ld. Sessions Judge, Thoubal had already observed that there is no material for offence under Section 307 IPC and Section 27(1) Arms Act. The reasoning of the Ld. Sessions Judge is not proper.

[12] Accordingly, bail applications are allowed and disposed of. The petitioners i.e. accused No. 2, namely Md. Atiqur @ Huk, accused No. 3, namely N. Alexander Singh and accused No. 5, namely A. Sanjitkumar @ Khun are to be released on bail in case of arrest on PR bond of Rs. 50,000/- with a surety (Govt. Employee) of each like amount to the satisfaction of the arresting authority subject to the conditions:

- (a) The petitioners shall furnish personal bond of Rs. 50,000/- (Rupees Fifty Thousand) each with one surety each of the like amount.
- (b) The petitioners shall co-operate with the investigation.
- (c) The petitioners shall not tamper with the evidence or influence witnesses.
- (d) The petitioners shall not leave Manipur without permission of Ld. Sessions Judge, Thoubal.

(e) On breach of any of the aforesaid conditions, the respondent police is entitled to take appropriate action against the petitioner in accordance with law.

[13] It is made clear that the observations made in this order are limited to the question of grant of anticipatory bail to the petitioners and the merits of the complaint/case has not been delved into.

[14] Send a copy of this order to the Ld. Sessions Judge, Thoubal and OC, Thoubal PS for information.

JUDGE

FR/NFR

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KH. JOSHUA
MARING

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