

KHOIROM
BIPINCHAN
DRA SINGH

Digitally signed by
KHOIROM
BIPINCHANDRA
SINGH
Date: 2023.12.18
15:57:25 +05'30'

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

AB No. 11 of 2023

Mayangmayum Salman Khan @ Worsen, aged about
29 years, S/o Md. Hussain of Khergao Sabal Leikai,
P.O. & P.S. Porompat, District - Imphal East, Manipur
PIN – 795005.

.... Petitioner

- Versus -

The Officer-in-Charge, Porompat Police Station, Imphal
East District, Manipur, PIN – 795005.

.... Respondent

B E F O R E

HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU

For the petitioner	:	Md. Rabi Khan, Advocate
For the respondent	:	Mr. H. Samarjit, P.P.
Date of hearing	:	07.12.2023
Date of order	:	15.12.2023

O R D E R

[1] Heard Md. Rabi Khan, learned counsel appearing for the petitioner and Mr. H. Samarjit, learned PP appearing for the State respondent.

[2] The present pre-arrest Bail Application is filed praying for granting an appropriate order/direction to the Respondent for enlarging him on bail in the event of his arrest in connection with F.I.R. Case No. 77(04)2023 PRT-P.S., u/s 21(b)/29/60(3) ND&PS Act, 1985.

[3] Brief facts of the case presented by the petitioner in his application are as follows:

"On 15.04.2023, one Md. Kumar @ Ithem of Khergao Sabal Leikai came to the house of the petitioner and requested for hiring his four-wheeler Car (Beat) to travel up to Lilong. Being a local friend, the petitioner was also agreed and driven his car along with said Kumar @ Ithem and returned from Lilong along with two of Kumar's friend to Kshetrigao. On the way to Khergao from Lilong, a team of Porompat police personnel were found frisking and checking the vehicles and the petitioner's vehicle was also checked by the police. In the meantime, two of the occupants from the car run away when the police tried to check them and another one was detained by the police for verification and checking whereas the petitioner was allowed to leave the spot along with his vehicle. On reaching his home, a team of police personnel again rushed to the house of the petitioner and tried to arrest/pick up the petitioner but on seeing the nature and attitude of the police personnel, the petitioner being apprehended to be faced dire consequences, stealthily left his house so as to unable to cause arrest the petitioner by the police. On failure to cause arrest the petitioner, the said police team recovered/seized the vehicle of the petitioner from his house and informed to his family members to surrender the petitioner before the police at the earliest. Later on, the petitioner came to know through the local people that the police had already arrested two persons namely Md. Rafi and Md. Abdul Sahir @ Sanoi (both are residents of Lilong Tairen Makhong, Thoubal District, Manipur) in connection with the above-referred FIR case and they were also trying to arrest the Petitioner in c/w the above referred FIR case".

[4] Grounds on which the petition is filed;

"8. That, the petitioner has been suffering from LUMBAR PIVD (L3L4 AND L5S51 PIVD) since the last many days and as such he has not been able to walk even without support of somebody. He has been given medical treatment on 06.06.2023 at GNRC, Department of Neurology and Critical Care, Sixmile, Khanapara, Guwahati, Assam but no improvement has found till date.

9. That, if the Hon'ble Court is pleased to pass an order or direction for enlarging him on bail in the event of his arrest, the petitioner shall abide by any direction enunciated under section 438 of the Code of Criminal Procedure, 1973 and further declared that he will fully co-operate with the Investigating Officer of the case during the investigation. He shall also have men with sufficient means for surety/sureties to the satisfaction of the Hon'ble Court if released on pre-arrest bail".

[5] Prayers in the petition are given herein below:

- "i) to pass an order/direction to the Officer-in-Charge of Porompat P.S./I.O of the case for releasing the petitioner on bail in the event of his arrest in connection with F.I.R. Case No. 77(04)2023 PRT-P.S., u/s 21(b)/29/60(3) ND&PS Act, 1985;
- ii) Further pass appropriate order/direction in the facts and circumstances of the case
- iii) Pending the disposal of this application, Your Lordship may be pleased to pass an order/direction to the O.C/I.O of the case in the nature of ad-interim bail that in the event of his arrest in c/w the above referred FIR case in the interest of justice".

[6] State respondents filed objection and facts narrated are as thus:

"2. That the brief fact of the case is that on 15.04.2023 at 10:30 p.m. the complainant ASI Aktar Hussain of Porompat PS reported to OC/PRT-PS stating that on the same day at about 9:00 pm while he along with his team were conducting mobile frisking and checking in and around Kshetrigao Sabal Leikai. One white colour car driven by an unknown person was seen coming from opposite side and tried to flee away. Seeing the suspicious nature his team immediately stopped the car Chervolet Beat (bearing regd. No. MN06LB-9603, white in colour) and the driver was detained for further verification.

On verification the driver identified himself as one Md. Rafi (35) yrs S/o (L) Md. Chaoba of Lilong Maning Tairen Makhong. On checking the detainee at the spot, one Redmi mobile handset was found from his right side pant pocket. Further on thorough checking of the vehicle one black colour plastic polythene was found concealed beneath the gear lever of the car. On opening the black polythene 4 (four) soap cases were found and on opening found some powder suspected to be brown sugar. On enquiry, the said person disclosed that the said 4 soap cases contain brown sugar weighing about 14 grams each. On weighing the said powder containing in the 4 soap cases using a weighing scale, it is found 56 grams (without the containers). Hence the said soap cases suspected to contain brown sugar, one purple colour Redmi mobile phone and one Chevrolet Beat white colour bearing Regd. No. MN06LB-9603 were seized by observing necessary formalities at the spot on the same day at 9:30 pm.

Further, on preliminary interrogation at the spot, the detainee Md. Rafi (35) yrs S/o (L) Md. Chaoba of Lilong Maning Tairen Makhong admitted that he is a drug user as well as used to sale the said drugs to interested general public too. He further stated that he bought the said drug from one Md. Abdul Sahir @ Sanoi of Lilong Tairen Makhong. So, he was arrested at the spot, i.e. Kshetrigao Sabal Leikai by observing necessary formalities at 9:35 pm.

Therefore, the said accused person Md. Rafi (35) yrs S/o (L) Md. Chaoba of Lilong Maning Tairen Makhong along with the seized items were handed over to OC-Porompat PS for further necessary legal action. Hence, the case.

Investigation;

3. That during the course of investigation examined and fully corroborated with the OE of the case. Re-seized the seized articles by preparing a re-seizure memo. Visited the spot and prepared a rough sketch map of the PO with its proper index. On interrogation, he admitted the charges leveled against him. In the course of investigation received information about the where-about of co-accused Md. Sanoi of Lilong Tairen Makhong. Immediately rushed to the said location and he was arrested from his residence on 16.04.2023 at around 02:30 am. They were produced before the Hon'ble CJM/IE and remanded into Police Custody till 25.04.2023.

4. That during the remand period they were subjected to thorough interrogation and they admitted the charge leveled against them. Md. Abdul Sahir @ Sanoi and Rafi disclosed that they are acquainted with two person namely Md. Salman of Kshetrigao Sabal Leikai and Md. Ethem of Kshetrigao Sabal Leikai through some common friends. On the day of the arrest i.e., 15.04.2023 at about 05:13 pm Salman and Ethem came to Lilong on a car Chevrolet Beat white color driven by Salman and they met at a local tea shop at Lilong Bazar. Then all of them went to the house of one person namely Bogimayum Laiman of Lilong Chandakhong and

Salman bough 4 (four) soap cases of brown sugar at a rate of Rs. 1200/- per soap. Since Salman was short of money on request by Sanoi and Rafi they agreed to go to Salman's residence for collecting the due amount. On the way when they reached Kshetrigao Sabal Leikai they were stopped by police and seeing them Salman, Ethem and Sanoi escaped from the spot and Rafi was detained and arrested.

5. That Hectic efforts were made to arrest Md. Salman of Kshetrigao Sabal Leikai and Md. Ethem of Kshetrigao Sabal Leikai by conducting multiple house search in their respective houses however they were not found as they are absconding. Private sources were also engaged to find their where-about but not fruitful. Police Summon were also served through family members but the accused has not appeared. Further, in the course of investigation, the seized suspected brown sugar was forwarded to the Director, Directorate of Forensic Sciences, Pangei vide memo no. 349/PRT-PS/2023 dated 17.04.2023 for expert examination and the report is awaited.

6. That in the light of the above facts and circumstances, it is well established that the under noted accused person have jointly committed the crime with connivance with co-accused Md. Rafi (35) yrs S/o (L) Md. Chaoba of Lilong Maning Tairen Makhong, P.S. Lilong, District – Thoubal, Manipur, Md. Abdul Sahir @ Sanoi (27) yrs S/o (L) Md. Abdul Mantalip of Lilong Tairen Makhong, P.S. Lilong, District – Thoubal, Manipur and Md. Ethem of Kshetrigao Sabal Leikai who is still absconding.

7. That if the prayer for pre arrest bail is granted, it will greatly hamper the smooth investigation of the case."

[7] After hearing the submissions of both the learned counsel for the parties and also after perusal of the contentions made in the application as well as the objection filed by both the petitioner and respondents, it is evident and admitted factual position that the name of the present petitioner is not in the FIR initially registered and also that the petitioner is the owner of the vehicle said to have been seized in connection with the present case and the suspected brown sugar was allegedly found concealed in the vehicle, as such, the possibility of his involvement in the present case cannot be ruled out at this stage.

[8] It is, further, in the record that the petitioner is not yet investigated or interrogated in connection with the present case and also it is a fact that the alleged absconding 2 (two) accused including the present

petitioner with already arrested 2 (two) accused were in the petitioner's said vehicle when the police personnel checked and found the alleged suspected brown sugar, even though the name of the writ petitioner is not found in the FIR at the initial stage but after the arrest of the 2 (two) accused namely, Md. Abdul Sahir @ Sanoi and Rafi who disclosed that they are acquainted with the two persons namely, Md. Salman of Kshetrigao Sabal Leikai and Md. Ethem of Kshetrigao Sabal Leikai through some common friends. On the day of the arrest i.e. 15.04.2023 at about 05:13 pm Salman and Ethem came to Lilong on a car Chevrolet Beat white colour driven by Salman and they met at a local tea shop at Lilong Bazar. Then, all of them went to the house of one person namely, Bogimayum Laiman of Lilong Chandakhong and Salman (writ petitioner) bought 4 (four) soap cases of brown sugar at the rate of Rs. 1200/- per soap. Since Salman was short of money on request by Sanoi and Rafi they agreed to go to Salman's residence for collecting the due amount. On the way when they reached Kshetrigao Sabal Leikai, they were stopped by police and on seeing them Salman, Ethem and Sanoi escaped from the spot and Rafi was detained and arrested.

The learned Special PP submitted that even though hectic efforts were made to arrest Md. Salman and Md. Ethem of Kshetrigao Sabal Leikai in their respective houses, they were not found as they were absconding. Police summon were also served through family members, but the accused had not appeared. Further, the seized suspected brown sugar was forwarded to the Director, Directorate of Forensic Sciences, Pangei vide memo dated 17.04.2023.

[9] The ground taken in the application is that the petitioner has been suffering from LUMBAR PIVD (L3L4 AND L5SS1 PIVD) since the last many days and as such he has not been able to walk even without support of somebody. He has been given medical treatment on 06.06.2023 at GNRC, Department of Neurology and Critical Care, Sixmile, Khanapara,

Guwahati, Assam but no improvement has found till date. But on perusal of the medical report annexed with the petition, it is found that this medical conditions are not emergency or life threatening.

[10] In the facts and circumstances hereinabove, the present petition is rejected on the ground that the stage of the investigation of the case is at the initial stage and the I.O. of the case is required to investigate the case smoothly and comprehensively.

[11] Accordingly, the present bail application is dismissed.

JUDGE

Lucy/Bipin

(FR/NFR)