

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

1. Bail Application No. 15 of 2023

Shri. Vicky Mangoulam Singson aged about 35 years S/o (L) Thangnga Singson of New Lambulane, II-Street P.O. Imphal, P.S. Porompat, Imphal East District, Manipur-795001.

..... Petitioner/s

- Versus -

Officer-in-Charge, Porompat Police Station, Imphal East District, Manipur-795001.

.....Respondent/s

With

2. Bail Application No. 16 of 2023

Shri. Lenzakhup Haokip aged about 44 years S/o T. Thangzalam Haokip alies T.T. Haokip resident of Kotlien Village, Churachandpur, at present residing at New Lambulane II-Street, P.O. Imphal, P.S. Porompat, Imphal East District, Manipur-795001.

..... Petitioner/s

- Versus -

Officer-in-Charge, Porompat Police Station, Imphal East District, Manipur-795001.

.....Respondent/s

With

3. Bail Application No. 17 of 2023

Shri. T. Thangzalam Haokip alies T.T. Haokip aged about 71 yrsr S/o Late T. Thongzachin Haokip, resident of Kotlien Village,

Churachandpur, at present residing at New Lambulane II-Street, P.O.
Imphal, P.S. Porompat, Imphal East District, Manipur-795001.

..... Petitioner/s

- Versus -

Officer-in-Charge, Porompat Police Station, Imphal East District,
Manipur-795001.

.....Respondent/s

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

For the petitioner	::	Mr. Tungrei Ngakang, Advocate
For the respondents	::	Mr. Y. Ashang, PP.
Date of hearing	::	09.08.2023
Date of Judgment and Order	::	01.09.2023

ORDER (CAV)

[1] These 3 (three) bail applications are filed by the petitioners under Section 439 of Cr.P.C. in connection with FIR No. 385(5)2023 PRT-PS U/S 295A/298/506/34 IPC and 25(1-B) Arms Act r/w 153A IPC. Since these bail applications pertain to the same FIR, they are considered together and being disposed of by this common order. On 09.06.2023, the petitioners filed a bail application before the Ld. CJM, Imphal East for releasing them on bail. Vide order dated 21.06.2023 in Cril. Misc. (B) Case No. 92 of 2023; 93 of 2023; 94 of 2023 and 95 of 2023, the Ld. Chief Judicial Magistrate (CJM), Imphal East rejected the bail applications as there was prima facie case against the petitioners. It has been observed that the petitioners threatened the vendors/shopkeepers with arms and ammunition at the tribal

market at New Lambulane area and no medical documents were submitted with respect to their health issues.

[2] The brief facts of the present case is that on 22.05.2023 at around 10:20 a.m., an information was received that around 10:00 a.m. of the same day, some youths numbering 3 or 4 males (Kuki) under the instigation of Mr. T. Thangzalam Haokip (accused No. 1), who was an Ex-MLA of Henglep A.C., turned up at Checkon Tribal Market, Imphal East and broke the peace and tranquillity of the said area by threatening the vendors sitting in the market belonging to different ethnic groups to vacate the place immediately. The accused persons also intimidated women vendors and shopkeepers around the area to shut down the shops and vendors. As a result, shops and vendors belonging to different ethnic groups got agitated and huge mobs out of anger tried to storm into New Lambulane area. The accused persons also allegedly used abusive and hatred words to the womenfolk vendors from different communities at Tribal Market, Checkon and as such, high tension erupted in the said area.

[3] On enquiry, it is stated that some 3 or 4 male youths (Kukis) under the instigation of Mr. T. Thangzalam Haokip (accused No. 1) committed the crime and moved towards the New Lambulane, Imphal East and the Police team moved to the said area and 2 (two) Kuki youths armed with SBBL guns were detained. On enquiry, they identified themselves as (i) Vicky Mangoulam Singson (petitioner in Bail. Appln. No. 15 of 2023) and (ii) Johnlalkhopao Gangte and they admitted to the said crime under the

instigation of accused No. 1, who instructed them to warn and threaten the womenfolk vendors of Tribal Market. The petitioners were arrested at 11:00 a.m. of the same day, i.e. 22.05.2023 and their arms were seized by observing necessary formalities. During the course of investigation, a police team conducted raid at the house of accused No. 1 and found from him two pistol bearing No. H37111Y BERETTA and Carl Walther bearing No. 814724, one single barrel gun bearing No. 10165 BE 1997 along with 12 nos. of live rounds of 7.65 calibres were seized from the possession of Mr. Lenzakhup Haokip (petitioner in Bail. Appln. No. 16 of 2023), who is the son of accused No. 1, of New Lambulane 2nd street and was arrested for possessing unauthorized arms and ammunition. Women vendors of Checkon Tribal Market, Imphal East corroborated with the O.E. that they were threatened by the said two armed Kuki youths, namely (i) Vicky Mangoulam Singson and (ii) Johnlalkhopao Gangte, to close their shops/vendors and to vacate the place immediately. Later on, the accused No. 2 was released on 30.06.2023 from Manipur Central Jail, Sajiwa in bail by the Ld. CJM on medical ground.

[4] According to the report of I.O., accused No. 1 instigated the accused Nos. 2 and 3 to threaten the women vendors who were selling vegetable at Tribal Market and to break peace and tranquillity in the said area. However, the accused No. 1 stated that he never instigated to do such act nor the accused persons did such act and as such, the allegation is concocted one and is baseless. It is stated that between New Lambulane

and the Tribal Market where the women vendors are selling vegetables, there is an iron gate guarded by heavy State Police and Centre army and there is no possibility to go out with gun to threaten the women vendors in the presence of the tight security.

[5] It is also stated that the allegation against the accused persons are based on false propaganda due to the conflict that is taking place in Manipur. Further, it is stated that 25(1-B) Arms Act is not applicable to the accused persons as the gun i.e. SBBL (Single Barrel Gun bearing No. 206418-2005 seized from the petitioners) is a license gun and there is no illegality in law to have it and the license gun seized from the petitioner house was after arrest under threat and duress and not from the spot. It is prayed that the order dated 21.06.2023 passed by the Ld. CJM, Imphal East in Cril. Misc. Case No. 92 of 2023 be set aside.

[6] The respondent-State filed counter affidavit and stated that the accused persons admitted their roles in the commission of alleged offences and if the accused persons are released on bail, there is highly possibility to flee from justice and also possibility to induce/threat the prosecution witnesses directly or indirectly and in such eventuality, there would be great hamper in the investigation and if the accused persons are released on bail, they were likely to commit prejudicial activities in the said area thereby causing high tense among other ethnic groups. It is also stated that in the prevailing situation in Manipur, the accused persons are safer in the judicial custody and it is prayed that the present Bail Applications be rejected.

[7] Heard Mr. Tungrei Ngakang, learned counsel for the petitioners and Mr. Y. Ashang, learned PP for the State respondent.

[8] Mr. Tungrei Ngakang, learned counsel for the petitioners submits that the guns were not seized from the physical possession of the accused persons. Accused Nos. 1 & 4 (who are father son duo) are staying in a four storied building occupied by four different families. It is stated that it is not shown from which floor, the guns were recovered. Learned counsel has pointed out that A-1 stays in 1st floor and A-4 at 3rd floor. Further, it is stated that A-1 is 71 years old and he is suffering from various ailments and his continued detention will seriously affect his health conditions. Due to law and order problem, the medical record cannot be obtained. It is submitted that there are no sufficient materials to suggest the involvement of the accused persons in the alleged offences charged against them. Reliance is placed on the decision of Hon'ble Supreme Court in the case of **Surinder Kumar Khanna v. Intelligence Officer, DRI: (2018) 8 SCC 271** to the effect that confession of the co-accused is not admissible against other accused. It is highlighted that A-1 & A-4 cannot be implicated by confession of A-2 & A-3. Learned counsel for the petitioners also refers to a judgment of Delhi High Court in the case of **Md. Irshad v. State of NCT of Delhi** [Bail Appln No.994/20222, Order dated 05.05.2022] which held that except for the confession of the co-accused, there was no other independent evidence to implicate the accused and the accused was accordingly released on bail. Further reliance is placed on the decision of **Sanjay Chandra v. CBI: (2012)**

1 SCC 40 which held that the object of bail is neither punitive nor preventive. It is prayed that the accused be released on bail and they would abide by all such conditions as imposed by this Court.

[9] Mr. Y. Ashang, learned PP submits that the petitioners are involved in offences for creating disharmony and mistrust amongst communities settled in a mixed colony during the time of communal violence. He further points out the incident had triggered fresh violence in this sensitive area and State Government had to clamp curfew in this area for a longer period to control the volatile situation. It is submitted that the seizures of arms and ammunitions were done as prescribed by law in presence of the witnesses and the accused also signed on the seizure memos. It is pointed out that no medical report/record is submitted by A-1 to substantiate that he is suffering from serious ailments. As the accused are involved for creating fresh problems during communal clash, it is prayed that the bail applications be rejected.

[10] This Court has considered the submissions made at bar, the materials on record and relevant case laws. The accused persons were arrested for instigating fresh violence in a locality of mixed communities during the volatile situation of communal clash. This incident had the potential of erupting fresh violence in the area, if not prevented by the security forces in time. The admissibility of the seizure and confessions of the co-accused are to be examined during the trial and the same may not be appropriate and is pre-mature at this stage while considering bail

applications. The complaint is corroborated by the statements of the witnesses recorded under Section 161 CrPC. Moreover, no material is placed on record to substantiate the illness of A-1. The safety of the accused is also paramount importance. Considering all these facts, this Court does not incline to release the accused persons on bail. Accordingly, bail applications are rejected. However, it is clarified that this Court does not express any opinion on the health condition of A-1 in absence of any materials. This order does not bar A-1 from approaching appropriate forum for bail on medical ground, if so advised.

[11] With these observations, the bail applications are disposed of.

JUDGE

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