JOHN TELEN KOM
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IN THE HIGH COURT OF MANIPUR
AT IMPHAL

Bail Appln. No.27 of 2023

Shri Ningombam Tomba Singh @ Tomthin aged about 21 years, S/o N. Biren Singh of Pechi Awang Leikai PO & PS Yairipok Thoubal District, Manipur.

……Petitioner

– Versus –

1. The Central Bureau of Investigation(CBI), through its Director, CBI Plot No. 5-B, 6th Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Margh New Delhi, 110003.
2. The Central Bureau of Investigation(CBI), CBI Crime Branch CGO Complex 'A' Wing 2nd Floor, Sector 1, DF-Block, Salt Lake Kolkata-700064.
3. The Officer in Charge, Nongpok Sekmai Police Station, Thoubal District, Manipur.

…. Respondents

With

Bail Appln. No.23 of 2023

Shri Arun Khundongbam, aged about 30 years, s/o Kh. Ingobi Singh of Shikhong Bazar, PO Yairipok and PS Nongpok Semai, Thoubal District, Manipur-795149.

……Petitioner

– Versus –

1. Central Bureau of Investigation(CBI) represented by its Director, Central Bureau of Investigation, Plot No.5-B, 6th Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, New Delhi 110003.
2. The Superintendent of Police, SIT, Manipur Central Bureau of Investigation, Lamphelpat, PO & PS Lamphel, Imphal West District, Manipur-795004.

……Respondents

With

Bail Appln. No.25 of 2023

Shri Pukhrihongbam Suranjoy Meitei, aged about 23 years, S/o P. Surmangol Meitei, a resident of Yairipok Nongbram, PO & PS Andro, Thoubal District, Manipur.

……Petitioner

– Versus –

1 The Central Bureau of Investigation(CBI), through its Director, CBI Plot No. 5-B, 6 L' Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Margh New Delhi, 110003.

2 The Superintendent of Police, SIT, Manipur Central Bureau of Investigation, Lamphelpat, PO & PS Lamphel, Imphal West District, Manipur-795004.

…..Respondents

Bail Appln. No.26 of 2023

Nameirakpam Kiran Meitei, aged about 29 years, S/o Nameirakpam Samu Meitei of Nungbrang Mayai Leikai, P.O & PS Andro, Thoubal District, Manipur.

……Applicant

– Versus –

1. The Officer in Charge of Nongpok Sekmai Police Station, PO Yairipok, & PS Nongpok Sekmai, Thoubal District Manipur.

2. The Investigating Officer (IO) of the CBI Case No. RC 05620230012/CBI/SCB/Kolkata Ref: FIR No.110(06)2023 NSK-PS u/s 153A/398/427/436/448/302/354/364/326/376/34 IPC & 25(1-C) A. Act. Added u/s 376-D IPC & Section 3(1)(d),3(1)(e), 3(1)(g), 3(1)(w(i)), 3(1)(z), 3(2)(iii), 3(2)(iv), 3(2)(v) of SC& ST (PoA), Act, 1989 and its correspondent ZERO (91)(5) 2023 SKL-PS U/s 153A/398/427/436/448/302/354/364/326/376/34 IPC & 25(1-C) A. Act, Central Bureau of Investigation, Office of the Head of Branch, CBI, ACB Imphal Branch, Near D.C Office, West District Imphal, Post Office-Lamphelpat, Imphal-795004.

……Respondents

With

MC(Bail Appln.) No.5 of 2023

Shri Arun Khundongbam, aged about 30 years, s/o Kh. Ingobi Singh of Shikhong Bazar, PO Yairipok and PS Nongpok Semai, Thoubal District, Manipur-795149.

……Applicant

– Versus –

1. Central Bureau of Investigation(CBI) represented by its Director, Central Bureau of Investigation, Plot No.5-B, 6th Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, New Delhi 110003.
2. The Superintendent of Police, SIT, Manipur Central Bureau of Investigation, Lamphelpat, PO & PS Lamphel, Imphal West District, Manipur-795004.

..... *Respondents*

With

MC(Bail Appln.)No.7 of 2023

Nameirakpam Kiran Meitei, aged about 29 years, S/o Nameirakpam Samu Meitei of Nungbrang Mayai Leikai, P.O & PS Andro, Thoubal District, Manipur.

.....*Applicant*

– Versus –

1. The Officer in Charge of Nongpok Sekmai Police Station, PO Yairipok, & PS Nongpok Sekmai, Thoubal District Manipur.
2. The Investigating Officer (IO) of the CBI Case No. RC 05620230012/CBI/SCB/Kolkata Ref: FIR No.110(06)2023 NSK-PS u/s 153A/398/427/436/448/302/354/364/326/376/34 IPC & 25(1-C) A. Act.

Added u/s 376-D IPC & Section 3(1)(d),3(1)(e), 3(1)(g), 3(1)(w(i)), 3(1)(z), 3(2)(iii), 3(2)(iv), 3(2)(v) of SC& ST (PoA), Act, 1989 and its correspondent ZERO (91)(5) 2023 SKL-PS U/s 153A/398/427/436/448/302/354/364/326/376/34 IPC & 25(1-C) A. Act, Central Bureau of Investigation, Office of the Head of Branch, CBI, ACB Imphal Branch, Near D.C Office, West District Imphal, Post Office-Lamphelpat, Imphal-795004.

……Respondents

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the Petitioners	:	Mr. M. Hemchandra, Sr. Adv. in Bail Appl.No.26 of 2023; Mr. T.Rajendra, Sr. Adv. in Bail Appl.No.27 of 2023; Mr. N. Jotendro, Sr. Adv. in Bail Appln.No.23 of 2023; & Mrs. G. Pushpa, Adv. in Bail Appln.25 of 2023.
For the Respondents	:	Mr. W.Darakishwor Sr. PCCG along with Mr. KK Sahu Adv. & Ms. Khushbo Jaishwar, learned PP for CBI.
Date of reserved.	:	06.11.2023.
Date of order	:	**22.12.2023**

ORDER
(CAV)

[1] Heard Mr. M. Hemchandra, learned senior counsel assisted by Mr. Juno Rahman, learned counsel for the petitioner in Bail application No.26 of 2023; Mr. T. Rajendra, learned senior counsel assisted by Mr. Sakir Khan, learned counsel for the petitioner in Bail application No.27 of 2023; Mr. N. Jotendro, learned senior counsel assisted by Mr. Murtaza Ahmed, learned counsel for the petitioner in Bail application No.23 of 2023; Mrs. G. Pushpa, learned counsel for the petitioner in Bail Application 25 of 2023 and Mr. W. Darakishwor, learned Sr. PCCG along with Mr. KK Sahu, learned PP & Ms. Khushboo Jaiswal, learned PP for the CBI.

[2] These batch of bail applications have been filed under Section 439 read with 482 of Code of Criminal Procedure, 1973 praying for releasing the accused in connection with CBI Case No.RC0562023S0012/CBI/SCB/Kolkata U/S 153A/398/427/436/448/302/354/364/326/376/34 IPC & 25(1-C) Arms Act and section 3(1)(d),3(1)(e), 3(1)(g), 3(1)(w(i)), 3(1)(z), 3(2)(iii), 3(2)(iv), 3(2)(v) of SC& ST (PoA), Act, 1989, 66A/66E/67/67A IT Act(Added).

[3] Vide common order dated 04.09.2023, learned Special Judge (SC&ST) PoA, Thoubal rejected 6 (six) bail applications being Nos. 267 of 2023, 268 of 2023, 269 of 2023, 271 of 2023, 280 of 2023 & 285 of 2023 considering the stage of the investigation, sensitive nature, gravity of the offences alleged against the accused persons and possibility of the accused absconding from the jurisdiction of the court. Against the common order dated 04.09.2023, four bail applications have been preferred before this Court.

[4] Brief facts of the case as per the prosecution and as stated in the petitions are that on 04.05.2023, at around 3:00 pm, some unknown miscreants numbering about 800-1000 persons carrying sophisticated weapons like AK Rifles, SLR, INSAS and 303 Rifles forcefully entered the informant's village B. Phainom, Island Sub-Division, Kangpokpi District, Manipur about 42 Km south from Saikul PS . The violent mob vandalized all the house and burnt them to the ground after looting all the moveable properties and furniture, electronic items, utensils, clothes, grains, cattle, domestic animals etc. leaving all of them homeless. 5(five) villagers including three women, fearing loss of life, fled towards the forest. They were later on rescued by Nongpok Sekmai Police team and on their way to Nongpok Sekmai P.S., they were blocked on the way by the violent mob near Toubul (Sekmai Khunou) about 2 Km from Nongpok Sekmai PS

and about 3 Km from 33 AR Somrei post. One of the males was killed at the spot by the mob. All the three women were physically forced to remove their clothes and were stripped naked in front of the mob. It is also alleged that one young female was brutally gang raped in the broad day light in front of the other victims. Another male person was also murdered by the mob on the spot. The female victim and other two females managed to escape from the spot with the help of some known people of the area.

[5] Subsequently, the case is registered on the basis of written complaint of Mr. Thangboi Vaiphei, S/o Late Bulhen Vaiphei, Chief of Village-B Phainom, PO- Yairipok & PS –Nongpok Sekmai against unknown miscreants at Saikul-PS, District Kangpokpi alleging physical assault & gang-rape of women victims, murder of father and brother on one of the woman victim and other offences that took place at and around his village on 04.05.2023.

[6] On the basis of aforesaid complaint, on 18.05.2023, FIR bearing No.ZERO(91)(5) 2023 was registered at Saikul-PS u/s 153A/398/427/436/448/302/354/326/376/34 IPC & 25(1-C) Arms Act. Thereafter, the case was transferred to Nongpok-Sekmai PS, Thoubal District, Manipur on the point of jurisdiction and FIR No. 110(06)2023 NSK-PS dated 21.06.2023 was re-registered under aforesaid section of law. Pursuant to the Notification dated

26.07.2023 issued by the Govt. of Manipur under Section 6 of DSPE Act, 1946 and the Notification dated 28.07.2023 issued by the Govt. of India under Section 5 of the same Act, the case was transferred to CBI, SCB, Kolkotta and re-registered as RC No. 0562023S0012 on 28.07.2023. Vide order dated 25.08.2023 in SLP(C) Diary No. 19206 of 2023, Hon'ble Supreme Court passed a detailed order in respect of 27 cases transferred to CBI (including the present FIR) for ensuring fair process of criminal justice administration considering the overall environment in Manipur. The Chief Justice of Gauhati High Court was requested to identify officers of the rank of Chief Judicial Magistrate and Sessions Judge in Guwahati to look after these cases and the acting Chief Justice of the High Court of Manipur to identify local Magistrates in Manipur for the purpose of recording statement under Section 164 CrPC and Test Identification Parades (TIPs). Accordingly, courts of Special Judge, CBI & NIA, Assam; both the CJM and Addl CJM, Kamrup (Metro), Guwahati were to deal the cases transferred to CBI. Similarly, Magistrates were identified in Manipur for the purpose of recording statements under Section 164 CrPC and for conducting TIPs. In its reply, CBI stated that chargesheet was filed on 16.10.2023 before the Special Court at Guwahati against the accused persons. It is seen from the

record that vide order dated 13.09.2023, the Special Court at Thoubal, Manipur transmitted the case record to the Special Court at Guwahati.

[7] Accordingly, the accused filed bail applications before the Court of Special Judge (SC& ST) PoA, Thoubal and the learned Special Judge after having heard the learned Counsels of the petitioners as well as the Ld. Counsels for the CBI and considering the stage of the investigation, sensitive nature and gravity of the offences alleged against the accused persons and the possibility of absconding from the jurisdiction of the Court, the bail applications of the accused persons were rejected vide its order dated 04.09.2023. Therefore, having no alternative option, the accused persons have approached this Court by way of filing these bail applications praying for releasing them on bail.

[8] During the course of hearing Mr. W. Darakishwor, learned Sr. PCCG has raised the question of the maintainability of the present petitions before this Court as the FIR was already transferred to CBI and the proceedings to the Special Court at Guwahati by an order dated 25.08.2023 passed by Hon'ble Supreme Court. It is clarified that even if the place of occurrence is within the territorial jurisdiction of this Court and upon transferred of the case to the Special Court at Guwahati, this Court may not entertain the present bail applications that too after filing of chargesheet before the Special Court at

Guwahati. Learned counsel prays that the bail applications be dismissed on this ground alone.

[9] Mr. M. Hemchandra, learned senior counsel submits that the FIR was transferred to CBI only. In the present case, the impugned order dated 04.09.2023 was passed by the Special Court at Thoubal, Manipur even after the transfer of the case by the Hon'ble Supreme Court vide order dated 25.08.2023. It is stated that this Court still has jurisdiction to examine the legality of the order dated 04.09.2023 passed by the Special Court at Thoubal. Mr. T. Rajendra, learned senior counsel refers to the provisions of Section 177 CrPC which prescribes the place of trial within the territorial jurisdiction where the offence has been committed. Regarding the transfer of cases from one State to another, he draws the attention of this Court to the provisions of Section 406(2) CrPC, transfer can be made only on the application of Attorney General or of an interested party. It is submitted that there is no application from the AG or any party and hence this Court has still jurisdiction. Mr. N. Jotendro, learned senior counsel submits that as the Hon'ble Supreme Court permitted the Magistrates in Manipur to record statements under Section 164 CrPC and to conduct TIPs, the courts in Manipur including this Court have jurisdiction. Mrs. G. Puspa, learned counsel also adopts the submissions of the senior counsel and prays that the bail

applications be heard on merit. In alternate, it is prayed that the accused may be permitted to approach the competent courts at Guwahati for the same relief.

[10] This Court has considered the submissions made with regard to the maintainability of the bail applications and has perused the materials on record. It is clear from the order dated 25.08.2023 passed by the Hon'ble Supreme Court that further proceedings of 27 cases (including the present case) would be conducted at Guwahati due to the prevailing situations in Manipur. Courts have been identified in Guwahati for the said purpose. The limited jurisdiction of recording statements under Section 164 CrPC and conducting TIPs in Manipur is aimed at facilitating the investigation and the same cannot be stretched conferring parallel jurisdiction in Manipur even after transfer. Now, the chargesheet has been filed by the CBI before the Special Court at Guwahati.

[11] In the circumstances, this Court is of the considered view that it may no longer be proper to entertain these bail applications, even though the impugned common order dated 04.09.2023 was passed by a court within the territorial jurisdiction of this Court. Without expressing any opinion on the merit of the case the bail applications are disposed of with a liberty to the accused persons to approach competent courts at Guwahati, if so advised. No cost.

[12] Misc. applications are also disposed of in terms of the main order.

JUDGE

FR/NFR

John Kom