

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

AB No.45 of 2022

Ningombam Somorjit @ Sanjit Singh
aged about 39 years, s/o (late) N.
Rebango Singh, resident of Thoubal
Ningombam Mayai Leikai, PO PS
& District Thoubal, Manipur ... Petitioner

-Versus-

1. The State of Manipur represented by
the Commissioner/Secretary/Special
Secretary (Home), Govt of Manipur,
Manipur Secretariat, Imphal West and
Manipur 795001.
2. The Officer-in-charge, Women Police
Station, Thoubal Police Station, Manipur.

... Respondents

**BEFORE
HON'BLE MR. JUSTICE A.GUNESHWAR SHARMA**

For the Petitioner	::	Ms.Noutuneshwori Devi, Advocate
For the respondents	::	Mr.Y.Ashang, PP.
Date of hearing	::	27.03.2023
Date of order	::	31.03.2023

ORDER

The petitioner filed the present Bail Application under Section 438 CrPC apprehending arrest in connection with FIR No.16 (7) 2022 Women Police Station, Thoubal, under Section 448/325 IPC and later on added Section 354 IPC.

[2] The FIR was registered on the basis of complaint dated 10.07.2022, filed by one N.Pimita Devi to the Officer-in-charge Women Police Station, Thoubal. The complaint reads as under:

“To,

The Officer-in-charge,
Women Police Station,
Thoubal, Manipur.

Subject: Report
Name of Accd. Person: Ningombam
Somorjit @ Sanjit (39 yrs) S/o (L)
N.Rabango Singh of Thoubal
Ningombam.

Madam,

I have honour to report that on 8.9.2022 at about 9.30 PM Ningombam Somorjit @ Sanjit Singh (39) s/o (L) N.Rabango Singh (accd person) came at my house under influence of liquor and told that he (Somorjit) likes to cook for “Asti” of their relatives aunty of my garage and I gave the positive response. But he had beaten me without any reason. In that my daughter namely N.Sopiya Devi aged about 12 yrs tried to stop the incident but my daughter was also seriously beaten by the said N.Somorjit Singh.

I and my daughter gave medical treatment at District Hospital, Thoubal.

It is requested kindly to take up necessary legal action against the said person.

Yours faithfully,

Sd/-
N.Pimita Devi
w/o N.Bimol Singh of
Thoubal Ningombam Mayai Leikai,
9366176381"

[3] Accordingly, FIR was registered on 10.07.2022 for causing house trespass and voluntarily causing grievous hurt. The O/C, Women Police Station, Thoubal, issued Notice dated 12.07.2022 to the petitioner to appear before the I.O, on or before 17.07.2022. The petitioner approached the learned Sessions Judge, Thoubal by way of Cril Misc (AB) No.62 of 2022. Vide order dated 18.07.2022 the petitioner was granted interim protection under Section 438 Cr.P.C.

The I.O of the case submitted a report to the learned Sessions Judge, Thoubal, in connection with the anticipatory bail matter and it was stated that offence under Section 354 IPC was added as the crime was committed by a man against one girl and one women. Vide order dated 29.08.2022 in Cril Misc (AB) No.62 of 2022, the learned Sessions Judge, Thoubal, rejected the Bail Application on the basis that the offence under Section 354 IPC was added. Being aggrieved by the order of the learned Sessions Judge, the petitioner has approached this Court, praying for anticipatory bail under Section 438 Cr.P.C. Vide order dated 16.09.2022, this Court directed the respondents not to arrest the petitioner.

[4] The State respondents filed objection to the bail application. The respondents stated that the petitioner assaulted the daughter of his elder sister and her daughter by sandal and there were injuries.

During pendency of the Bail Application, the petitioner also filed an application being Cril M.C No.2 of 2023 for impleading the complainant as respondent No.2 in the Bail Application. However, vide order dated 15.03.2022 the application was dismissed as withdrawn.

[5] Heard Ms.Noutuneshwori Devi, learned counsel for the petitioner and Mr.Y.Ashang, learned PP for the State.

Ms.Noutuneshwori, learned counsel for the petitioner submits that a bare perusal of the complaint filed to the Police would show that the petitioner had beaten the complainant and her daughter and FIR was originally registered under Section 448/325 of the IPC and both these are bailable offences and later on when the petitioner approached the learned Sessions Judge, Thoubal, for anticipatory bail, Section 354 IPC was added. But there is no material to show that the ingredients of the offence under Section 354, outraging modesty of women are present in the present case. In the detailed report submitted by the Police to the learned Sessions Judge, it is stated that the injury is simple but it is vaguely stated that offence under Section 354 IPC was added as the crime was committed by a man on a woman and a girl. Ms.Noutuneshwori Devi, learned counsel for the petitioner submits that mere beating of a female by a male will not fall within the definition of outraging modesty of a woman and without permission of Court Police cannot add Section 354 of the IPC. She has further stated that the accused must have used criminal force on her, and that the criminal force must have been used on the woman intending thereby to outrage her modesty. She has also stated that the learned Sessions Judge, Thoubal have wrongly held that the mere beating of a female attracts Section 354 IPC and she prays that the petitioner had beaten

the complainant and her daughter in the heat of a moment and there is no element of outraging the modesty of a woman. She prays that the bail application may be allowed and interim may be made absolute.

[6] Mr.Y.Ashang, learned PP for the State submits that the Police have added the offence under Section 354 IPC in pursuance of investigation of the case and Police has the power to add the offence in furtherance to the investigation and permission of the Court is not required.

[7] Considering the rival submissions of the parties and materials on record, the main allegation as per the complaint lodged with the Women Police Thoubal is about beating of the complainant and her daughter by the petitioner who is an uncle of the complainant (daughter of the elder sister of the present petitioner).

[8] In the case of **Ramkripal Vs State of M.P** reported in **(2006) 10 SCC 725**, the Hon'ble Supreme Court described the essential ingredients for an offence under Section 354 IPC as under:

"3. Essentials of offence u/s 354 are:

- (1) That the assault must be on a women.
- (2) That the accused must have used criminal force on her, and
- (3) That the criminal force must have been used on the woman intending thereby to outrage her modesty.

Act will amount to outraging of modesty, if it is such which could be perceived as one capable of shocking sense of decency of a woman. Modesty

of a woman is her sex, it is a virtue which attaches to a female owing to her sex. Modesty is quality of being modest and in relation to women, it is womanly propriety of behaviour, scrupulous chastity of thought, speech and conduct.”

[9] In the case of **Ram Das Vs State of West Bengal** reported in **AIR 1954 SC 711**, the Hon’ble Supreme Court held that:

“In the absence of any evidence as to any gesture made by the accused, the evidence that he was staring with lustful eyes, had to be discarded as giving any indication to his intention because such an impression is more psychological than factual. In view of the fact, that a quarrel had preceded the push, and that the women were not alone but had male companions who had taken part in the quarrel, the prosecution case as to the accused having attempted to outrage the women’s modesty had to be rejected, in the absence of any clear and unimpeachable evidence as to his intention to outrage their modesty, or as to his knowledge that by his conduct he was likely to outrage their modesty.”

[10] In view of the above provisions of law as held by the Hon’ble Supreme Court, this Court does not find any material for outraging the modesty of women and mere beating by a sandal will not amount to outraging modesty of women. Accordingly, the Bail Application is allowed.

Thus, it is directed that in the event of arrest in connection with the FIR No.16 (07) 2022 WPS TBL, the petitioner, Ningombam Somorjit @ Sanjit Singh, aged about 39 years, s/o (L) N.Rabango Singh, resident of Thoubal Ningombam Mayai Leikai, PO & PS Thoubal, Thoubal District, Manipur, shall be released on furnishing PR bond of Rs.50,000/- (Rupees fifty thousand) only with one surety of

the like amount to the satisfaction of the Investigating Officer/Arresting Authority, on the conditions that:

1. the petitioner shall co-operate with the investigation;
2. the petitioner shall make himself available before the Investigating Authority as and when called for;
3. the petitioner shall not influence prosecution witnesses; and
4. the petitioner shall not leave the State of Manipur without prior permission of the Court.

JUDGE

Priyojit

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SINGH

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by RAJKUMAR
PRIYOJIT SINGH
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