

Serial No. 01
Supplementary
List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 5 of 2023

Date of Decision: 10.02.2023

Shri. Tobias R. Marak Vs. State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. A.S. Siddiqui, Sr. Adv. with
Mr. D. Hynniewta, Adv.
For the Respondent(s) : Mr. R. Gurung, GA.
Mr. S. Sengupta, Addl. PP.
Mr. H. Kharmih, Addl. PP.

- i) Whether approved for reporting in Law journals etc.: Yes/No
- ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER (ORAL)

1. Heard Mr. A.S. Siddiqui, learned Sr. counsel along with Mr. D. Hynniewta, learned counsel for the petitioner who has submitted that the petitioner was allowed to be enlarged on pre-arrest bail in connection with Laban P.S. Case No. 52 (07) of 2021 under Section 323 read with Section 3/4 of the POCSO Act.

2. On the day when the said pre-arrest bail was made absolute, a

number of conditions were set out by the learned Court, inter alia, that the petitioner shall not leave the jurisdiction of the Court without the permission of the Court concerned. The learned Sr. counsel has submitted that the petitioner being a contractor by profession is required to pursue his vocation throughout the State of Meghalaya and if restricted, his livelihood will be at stake. It is therefore prayed that the said condition be relaxed to the extent that the petitioner be allowed free passage within the State of Meghalaya and even if any condition or undertaking is called for in this regard, the petitioner would comply with the same.

3. Mr. R. Gurung, learned GA appearing on behalf of the State respondent has objected to the prayer made and has pointed out that in the instant application, the petitioner has annexed copies of the work orders said to be issued in favour of the petitioner, but spelled out in the name of M/s J.T.R. Enterprise and such work order dated 22.03.2021 is said to expire within twelve months, the period having been already completed. The next work order relates to an order dated 02.03.2022 also having an expiry period of twelve months will also expire next month that is, in the month of March, 2023. On this ground, the learned GA has objected to the prayer made, contending that the same is without any basis.

4. This Court on consideration of the submission made would observe that the object of grant of bail is basically to ensure that the accused or petitioner or person concerned makes himself available before the police

authority or the Court concerned as and when required, for which normally, a set of conditions are laid out. One of such conditions is the restriction of the mobility of the person concerned within a specified area, more often than not, within the jurisdiction of the Court concerned.

5. Under the given facts and circumstances, this condition would not seem very stringent, but compared in the light of the petitioner's prayer herein, the same requires reconsideration if other attending conditions are fulfilled or are complied with. It would therefore not be proper for this Court to restrict the liberty of the accused/petitioner who has not yet been convicted in the case.

6. The prayer made by the petitioner appears reasonable and the same can be considered by this Court. Accordingly, prayer is allowed. The said condition is modified to the extent that the petitioner/accused is now allowed free passage within the State of Meghalaya, however if he wishes to travel beyond the State of Meghalaya, he is to seek prior permission before the Court concerned.

7. In view of the above, this petition is hereby disposed of. No costs.

Judge

Meghalaya
10.02.2023
"D. Nary, PS"