

Serial No. 07
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 4 of 2023

Date of Decision: 24.03.2023

Shri. Dechangra D. Sangma Vs. State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Ms. P. Agarwal, Adv.
For the Respondent(s) : Mr. K. Khan, AAG. with
Mr. S. Sengupta, 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 Ms. P. Agarwal, learned counsel for the petitioner.
2. Also heard Mr. K. Khan, learned AAG along with Mr. S. Sengupta, learned Addl. PP appearing on behalf of the State respondent.
3. The learned counsel for the petitioner has submitted that an FIR was lodged before the Officer-in-Charge, Ampati Police Station, South West Garo Hills District by a police official of the Ampati Police Station, informing to the effect that on 04.02.2023, on receipt of information, a Motor Cycle bearing

registration No. ML-08/11-5875 was intercepted and both the rider and the pillion rider were detained and searched, the result being suspected contraband or psychotropic substances (Heroin) was found and seized from the possession of the pillion rider, on being weigh, amounts to 11 grams or so. Accordingly, the apprehended persons were forwarded to the police station with due procedure followed as regard the seizure and detention of the suspected accused person. In this connection, Ampati P.S. Case No. 4(2) of 2023 was registered under Sections 21(b)/25/29 of the NDPS Act, 1985. The investigation is still ongoing.

4. The learned counsel further submits that the mother of the accused person, Shri. Dechangra D. Sangma has approached this Court with this application under Section 439 Cr.P.C praying for grant of bail in connection with the aforementioned Ampati P.S. Case No. 4(2) of 2023.

5. It is the submission of the learned counsel for the petitioner that the accused person is very remotely connected to the case or incident, inasmuch as, he is not aware of the activities or plans or intentions of the pillion rider who is his friend and who had sought a lift from him.

6. Unbeknownst to him, on the way to the destination, they were apprehended by the police and the alleged contraband items were seized from the possession of his friend, the said pillion rider. The accused person being innocent, but on being apprehended was incarcerated in custody, he has therefore approach this Court through the petitioner herein for grant of bail. It

is also the submission of the learned counsel that the alleged contraband seized is only about 11 grams or so, which is slightly above the prescribed small quantity as per Section 21 of the NDPS Act.

7. Be that as it may, it is submitted that the accused person being a young person of 21 years or so and a student who is to pursue his studies and to appear for his examination, therefore, the prayer for grant of bail is made with the undertaking that any conditions imposed by this Court will be duly complied with.

8. The learned AAG controverting the submission made by the petitioner has submitted that the C.D sought for to be produced before this Court is duly produced today and has also submitted that the investigation by the I/O during the preliminary stage, has clearly revealed that the accused, son of the petitioner herein is very much involved in the whole operation, inasmuch as, it has been established that he along with the co-accused were in touch with certain drug peddlers and there is a well-established modus operandi for ferrying of the narcotic substances. It is therefore submitted that at this stage, if enlarged on bail, the accused person may upset the course of investigation and other suspects may not be apprehended. It is therefore prayed that this application may be dismissed.

9. This Court has given due consideration to the submission made. At the outset, it may be mentioned that the menace of drug and drug trafficking has increased to such an extent that it is threatening the life and security of the

young people, particularly and any indication or sign to show that there has been any hint of a possible transaction of such psychotropic substances, has to be arrested or nip in the bud and no sympathy should be shown to the perpetrator. However, due procedure of law has to be followed, for which the investigation is to be given a free hand.

10. The authority cited by the learned counsel for the petitioner in the case of *Sami Ullaha v. Superintendent, Narcotic Central Bureau: (2008) 16 SCC 471* at para 10 is a reiteration of the principle of bail which could be found or which is evident in cases of this kind wherever the principle of bail jurisprudence has to be applied.

11. Therefore, the authority cited above would have no direct connection with the case of the petitioner or the accused herein, except to be impressed upon this Court as to what has to be considered when bail is granted or refused. It is however well established and well settled that bail is a discretionary power exercised by the Court, albeit, based on certain parameters, factors and guidelines issued by the Apex Court from time to time in a series or rather a catena of judgments on the subject. While considering an application for bail, the first and foremost factor to be considered is the nature and gravity or the seriousness of the offence, the period of detention, if convicted, and also more importantly the consideration as to whether the accused, if enlarged on bail will abscond or tamper with the evidence and witnesses.

12. As pointed out above, the investigation carried out has prima facie

established the complicity of the accused person, for which this Court is inclined to allow the investigation to complete its course. It is also reiterated that in an offence of this nature, no sympathy of the Court can be shown, however plausible the cause may be of the concerned party. It is the considered opinion of this Court that at this juncture, no case is made out in favour of the accused for grant of bail.

13. In the light of the above, bail application is accordingly dismissed and stands disposed of. No costs.

14. Registry is directed to send back the C.D.

Meghalaya
24.03.2023
"D. Nary, PS"



Judge