

Serial No. 01
Supplementary
List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No. 20 of 2023

Date of Decision: 15.03.2023

Shri. Bernard N. Marak

Vs.

State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Ms. A. Kharmyndai, Adv. vice
Mr. A.S. Siddiqui, Sr. Adv.
For the Respondent(s) : Mr. N.D. Chullai, AAG. with
Ms. R. Colney, GA.

- | | | |
|-----|---|--------|
| 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. A. Kharmyndai, learned counsel for the petitioner who has submitted that the petitioner on an earlier occasion had approached the Court of the learned Sessions Judge, Tura for grant of bail in connection with Tura Women P.S. Case No. 31(03) of 2022 under Section 363/366A IPC read with Section 5 & 6 of the POCSO Act, which was accordingly granted vide order dated 02.12.2022. However, not being satisfied with one

of the conditions of bail issued vide the aforesaid order, the prayer for modification of some of the bail conditions therein was preferred before this Court in CrI.Petn. No. 10 of 2023 wherein, this Court vide order dated 16.02.2023 had allowed the same and had modified the said bail condition to the extent that the petitioner/accused is free to travel within the State of Meghalaya.

2. The petitioner/accused has now again approach this Court by this instant petition seeking for modification of the said condition, inasmuch as, it is submitted that the petitioner/accused is required to travel outside the State of Meghalaya for his professional and personal reasons, but due to the said condition, he could not do so. Accordingly, prayer is made in this petition to modify the said bail condition to allow the petitioner/accused to travel outside the State.

3. Mr. N.D. Chullai, learned AAG appearing on behalf of the State respondent has objected firstly, to the maintainability of this petition on the ground that a similar petition as mentioned above has been filed before this Court under the same provisions of Section 482 Cr.P.C and as such, any order passed in this petition would amount to a review of the said order dated 16.02.2023. Secondly, the learned AAG has also pointed out that in the said order dated 16.02.2023, this Court has held that the “bail condition was relaxed. However, in case the petitioner is to travel outside the State of Meghalaya, prior permission of the Court is required”, the Court meaning

the Trial Court or the Court wherein the original bail order was passed. It is therefore prayed that this petition is devoid of merits and the same is dismissed.

4. This Court has given due consideration to the submission made, however, the issue of maintainability would not be addressed at this point of time, suffice it to say that the second limb of argument advanced by the learned AAG is found favorable by this Court, inasmuch as, this Court vide its order dated 16.02.2023 has given the liberty to the petitioner to approach the Court, meaning the Court where the original bail order was passed for any modification of the said bail condition, including the prayer for permission to travel outside the State of Meghalaya. Accordingly, this petition is hereby dismissed as devoid of merits.

5. Before parting, it is the opinion of this Court that the petitioner is at liberty to approach the Court, wherein the said bail order was passed with any prayer as deemed fit and proper to be made before the said Court without the Court being influenced by the contents of the order passed herein.

6. With the above, this petition is accordingly disposed of. No costs.

Judge

Meghalaya
15.03.2023
"D. Nary, PS"