

Serial No. 17
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

AB. No. 11 of 2023

Date of Decision: 16.08.2023

Sri. Sandeep Kumar Bhagat

Vs.

State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)

:

Dr. N. Mozika, Sr. Adv. with
Mr. M.L. Nongpiur, Adv.
Ms. K. Gurung, Adv.

For the Respondent(s)

:

Mrs. N.G. Shylla, Sr. GA.

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

JUDGMENT (ORAL)

1. Heard Mrs. N.G. Shylla, learned Sr. GA on behalf of the State respondent who has submitted that the stand of the prosecution in this case is that the question of apprehension on the part of the petitioner as far as arrest is concerned is unfounded, inasmuch as, the steps taken by the prosecution is only for effecting the issuance of notice under Section 41A Cr.P.C which could not be affected due to the fact that the petitioner could not be located at his known place of residence. Therefore, if the notice

under Section 41A is affected, the provision itself provides that no arrest can be made immediately.

2. The learned Sr. GA has also referred to a noting in the case diary, wherein the Investigating Officer, while affecting the notice under Section 41A to another co-accused in this case, has directed him to inform the petitioner herein and another person to appear before the Byrnihat Police Outpost. It is therefore incumbent upon the petitioner to appear before the Investigating Officer and to acknowledge receipt of the said notice under Section 41A.

3. Dr. N. Mozika, learned Sr. counsel appearing on behalf of the petitioner has submitted that the petitioner will comply with the request made by the Investigating Officer and would acknowledge receipt of the notice under Section 41A as and when it is served upon him and would also appear before the Investigating Officer as and when directed. Since the prosecution has categorically submitted that no arrest will be made pursuant to notice under Section 41A being issued, therefore, at this stage, there will be no cause of apprehension of arrest. It is prayed that necessary orders may be passed in this regard.

4. This Court, on consideration of the submission made, would firstly observed that it is imperative upon the petitioner to cooperate with

the due process of law and to acknowledge receipt of the said notice under Section 41A. He is also to appear before the Investigating Officer as and when directed. Again, if and when the said notice is affected upon the petitioner, the submission made at the bar by the learned Sr. GA that no arrest will be made, is taken note of and to this extent, this Court, would agree that no apprehension is made out to qualify an application under Section 438 Cr.P.C.

5. Accordingly, in view of the observations made above, this application is disposed of.

6. Before parting, this Court would request the petitioner to immediately appear before the Investigating Officer within 3(three) days from today in connection with Nongpoh P.S. Case No. 44 (4) 2023 under Section 120 B/419/420/405 IPC and the Investigating Officer is to effect issuance of notice under Section 41A on his appearance. It goes without saying that no arrest should be made in keeping with the provisions of Section 41A.

Judge

Meghalaya
16.08.2023
"D. Nary, PS"