

Serial No. 13
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 16 of 2023

Date of Decision: 12.07.2023

Shri. Siddique Ali Vs. State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S.A. Sheikh, Adv.
For the Respondent(s) : Mrs. N.G. Shylla, Sr. GA.

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

JUDGMENT (ORAL)

1. Heard Mr. S.A. Sheikh, learned counsel for the petitioner as well as Mrs. N.G. Shylla, learned Sr. GA appearing on behalf of the State respondent.

2. The learned counsel for the petitioner has submitted that an FIR was lodged before the Officer-in-Charge, Phulbari Police Station on 18.06.2022 by the informant therein, who has alleged that a group of 7(seven) dacoits broke into his house and apprehended him. Thereafter, they looted possessions of the house, including gold, silver and cash. Then

they fled from his house leading to the lodging of the said FIR. The police, on receipt of the said FIR, have registered a case being Phulbari P.S. Case No. 48 (6) of 2022 under Section 397/395/34 IPC.

3. In course of investigation, the Investigating Officer has arrested a number of suspects, who are said to be involved in the said incident.

4. The son of the petitioner, at the relevant point of time, apprehending arrest, had accordingly moved this Court by way of an application for grant of pre-arrest bail, the same was rejected vide relevant order. The son of the petitioner was then removed to custody and is in judicial custody till date.

5. In pressing for this application, the learned counsel for the petitioner has submitted that the accused person named, Shri. Waliul Isam has been in custody for about 76 days or so and as such, he may be allowed to be released on bail, to which he will give an undertaking that he will abide by any conditions imposed by this Court.

6. Per contra, the learned Sr. GA appearing on behalf of the State respondent, has opposed the prayer made on the ground that the offence involved are serious in nature, inasmuch as, it involves dacoity, which is a crime not only against an individual or a private person, but rather of society as a whole. Since investigation would show that the accused person

herein is definitely involved in the alleged offence as stated in the FIR and his antecedent is also doubtful, inasmuch as, he is also involved in a similar case of dacoity, which case is pending before another court.

7. The learned Sr. GA also submits that on investigation, the Investigating Officer has recovered some of the stolen property, including gold ornaments and cash from the house of the accused person herein on being informed or led by the father of the accused, who is the petitioner herein and as such, if released on bail, firstly, he would pose a threat to society and secondly, there is no guarantee that he may not commit the same offence, if enlarged on bail.

8. The learned Sr. GA has also placed before this Court the case diary as well as the status report filed by the Investigating Officer, wherein the complicity of the accused person in question has been clearly established. It is also submitted that investigation is complete and the charge sheet has been filed on 05.07.2023 with the Investigating Officer finding a prima facie case under Section 395 Cr.P.C well established against the accused person, son of the petitioner and three other co-accused persons, who have been similarly charge sheeted. In view of the facts and circumstances and the incriminating evidence against the accused person, it is prayed that this bail application at this point of time may not be allowed.

9. This Court has considered the submission made and is also aware that in bail jurisprudence, bail is usually granted unless circumstance shows otherwise and jail is always the exception. The fact being that the liberty of a person cannot be curtailed by or through custody.

10. It is also well settled in a catena of judgments that the court while considering the prayer for grant of bail is to consider, taking into account certain factors relatable to the fact situation, such factors being the seriousness of the offence and the like.

11. On consideration of the submission made as well as on perusal of the papers produced before this Court, there is no doubt that prima facie, the accused person is involved in the offence alleged. It is, however, subject to evidence as to whether he could be convicted or not.

12. Be that as it may, in the backdrop of societal concern and a message to be sent to the citizen to ensure peace and safety as well as protection from criminal activities, this Court would find it prudent to not allow the prayer of the petitioner at this stage. This being the case, the prayer for grant of bail is rejected at this juncture.

13. Since the matter is already charge sheeted, it is expected that the court would proceed with the trial in right earnest. If no evidence is recorded within 1(one) month from today, the accused person in question is

at liberty to approach a competent court or even this Court for grant of bail, which will be considered at the relevant point of time.

14. The case diary produced before this Court is hereby returned.

15. In view of the above, BA. No. 16 of 2023 is accordingly dismissed and stands disposed of. No order as to costs.

Judge

Meghalaya
12.07.2023
"D. Nary, PS"

