

Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 20 of 2023

Date of Decision: 25.07.2023

Shri. Amrit Mandal Vs. State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S.A. Sheikh, Adv.
Mr. C.H. Thomlui, Adv.
For the Respondent(s) : Mr. S. Sengupta, Addl. PP. with
Mr. H. Abraham, 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 who has submitted that the petitioner is the nephew of an accused person namely, Smti. Bina Sarkar who was arrested in connection with Nongpoh P.S. Case No. 190 (10) 2022 under Section 21(b)/29 NDPS Act.

2. The investigation having been completed, the Investigating Officer has filed the final report, including the charge sheet on 20.11.2022 with the observation that a prima facie case is found well established

against the accused in question as well as another co-accused.

3. The case has been duly taken cognizance of by the Court of the learned Special Judge (NDPS) at Nongpoh and was registered as CrI. NDPS Case No. 11 of 2022. The stage of the case is for framing of charge.

4. The learned counsel has submitted that the petitioner is innocent and is not at all involved in the case and that she has been in custody for about 292 days. It is therefore prayed that the prayer for grant of bail may be allowed with any conditions to be imposed by this Court.

5. Mr. S. Sengupta, learned Addl. PP appearing on behalf of the State respondent has opposed the prayer made in this petition.

6. The learned counsel for the petitioner has further submitted that though, the charge sheet has been filed, the same is incomplete, inasmuch as, the FSL report has not yet been filed and the Investigating Officer has sought for filing of a supplementary charge sheet, and in such a situation, it could be deemed that the complete charge sheet has not yet been filed. Therefore, it is incumbent upon the authorities concerned to allow the accused person in question to be released on default bail.

7. This Court, on consideration of the submission made, would notice that the accused person was indicated in the FIR filed on 06.10.2022 which was based on a source information received by the police that there is

a movement of contraband goods or substances along the Guwahati-Shillong G.S Road and on Naka checking conducted at 17th Mile Pahamlang NH – 06 road near old MVI gate Byrnihat, Ri-Bhoi District, a vehicle being Maruti 800 grey silver colour bearing registration No. AS-01-7-8255 was detained and the same on being searched and checked, the alleged contraband goods was seized from the possession of the accused person named herein, who was one of the occupant of the said vehicle. Hence, the case.

8. Since the matter has already been charge sheeted, though the contention of the learned counsel for the petitioner would be that a complete charge sheet has not been filed, this Court would not go into this aspect of the matter as the issue of filing of an incomplete charge sheet, vis-à-vis, the filing of the FSL report is under consideration by a larger bench of the Supreme Court.

9. Be that as it may, prima facie, the accused person having been found to be in possession of such alleged contraband goods, it would be a matter of evidence to prove her innocence.

10. At this juncture, this Court is not inclined to allow the prayer made. Petition is hereby dismissed.

11. Before parting, this Court would request the Trial Court to

expedite the trial of the case and if at the end of 3(three) months, evidence has not been led, the accused person is at liberty to approach this Court for a fresh look on any prayer made for grant of bail.

12. In view of the above, this petition is accordingly dismissed and stands disposed of.

13. There will be no order as to costs.

Judge

Meghalaya
25.07.2023
"D. Nary, PS"

