

Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 25 of 2023

Date of Decision: 10.08.2023

Shri. Aynal Hoque

Vs.

State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)

:

Mr. N.J. Dutta, Adv.

Mr. N. Ahmed, Adv.

Mr. M.M. Zaman, Adv.

For the Respondent(s)

:

Mr. H. Abraham, GA.

Ms. A. Thungwa, 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 Mr. N.J. Dutta, learned counsel for the petitioner who has submitted that this is an application filed under Section 439 Cr.P.C for grant of bail on behalf of the three accused persons namely, Md. Fulchand Ali, Md. Mahidul Islam and Faridul Islam respectively, who were arrested in connection with Shella P.S. Case No. 22 (06) 2023 under Section 379 IPC.

2. The learned counsel has also submitted that the background

details of the case is that an FIR was filed on 14.06.2023 before the Officer-in-Charge, Bholaganj Police Station, Shella, East Khasi Hills District, Meghalaya by the owner of the vehicle (Tata Motor Truck) bearing registration No. ML-10-C-4160 to the effect that the said vehicle was found missing from the place it was parked on 14.06.2023 at about 5:00 AM. Accordingly, finding the said vehicle missing, the said FIR was filed.

3. The police, in course of investigation, were informed that the vehicle was found at a place called Boragaon area of Garchuk P.S in the State of Assam.

4. The learned counsel has further submitted that the accused persons named-above were found to be in possession of the said vehicle and accordingly, they were detained and arrested on 29.06.2023 and at present, they are in judicial custody. He, however, has made a single point prayer before this Court that the accused persons had been in custody for about 43 days and as such, it would be expected that the investigation in a case has been completed and the accused persons may be enlarged on bail so as to allow them to put up a strong defence as far as the prosecution of the said case is concerned. The learned counsel has also pointed out that as regard the seizure of the said vehicle by the Garchuk police, a separate criminal case was instituted therein and in that case, the accused persons named-

above have been enlarged on bail by order of the Hon'ble Gauhati High Court dated 01.08.2023. It is therefore prayed that this application may be allowed and that the accused persons will abide by any conditions to be imposed by this Court.

5. Per contra, Mr. H. Abraham, learned GA appearing on behalf of the State respondent has submitted that the investigation into the case is ongoing and the charge sheet has not yet been filed, given the fact that the stipulated or statutory period of 60 days has not yet elapsed. It is also submitted that the case diary as called for by this Court has been produced today and reference has been made to the contents of the case diary to say that this is a case where a network of criminals or persons involved in car theft is concerned and the abovementioned vehicle is not the only vehicle which was stolen by the above-named accused persons and their associates and accordingly, to release the accused persons at this stage, would hamper the progress of investigation.

6. It is also submitted that from the statement of one of the accused persons above-named, it appears that there are also two other persons involved in the racket namely, one Shri Sohar Ali and Shri. Kamal Hussain, who while negotiating on the price for the sale of the said stolen vehicle were about to be intercepted by the police, but had escaped from the hands

of the police. They are now on the run and as such, until and unless these two suspects are caught, the truth of the whole matter will not be revealed. It is therefore prayed that at this juncture, it may not be advisable to release the above-named accused persons on bail.

7. This Court on consideration of the submission made and on perusal of the application as well as the case diary and the contents thereof, would find that prima facie, the accused persons can be linked to the offence of theft as alleged, particularly of the said vehicle. Of course, it would be a matter of evidence as to whether they are involved in such offence or racket as has been alleged, but given the facts and circumstances as has been stated by the learned GA and as what has appeared from the case diary, which reveal the progress of investigation, this Court, at this juncture would find it difficult to enlarge the accused persons on bail.

8. Accordingly, this application is found to be devoid of merit, the same is accordingly dismissed and stands disposed of. No costs.

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

Judge

Meghalaya
10.08.2023
"D. Nary, PS"