

Serial No. 06
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 31 of 2023

Date of Decision: 28.08.2023

Aynal Hoque

Vs.

State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. M.M. Zaman, Adv.

For the Respondent(s) : Mr. N. Syngkon, GA with
Ms. A. Thungwa, GA

JUDGMENT AND ORDER (ORAL)

1. Heard Mr. M.M. Zaman, learned counsel for the petitioner. Also heard Mr. N. Syngkon, learned GA.

2. This matter has been put up before this Court today pursuant to the order passed by this Court on 25.08.2023 directing the prosecution to file the status report as regard Shella P.S. Case No. 20(05) 2023 under Section 379 IPC. It may, however, be noted that the accused persons herein are also involved in another case, that is, Shella P.S. Case No. 22(06) 2023 under Section 379 IPC, both cases being similar in nature inasmuch as it involves allegation of car theft.

3. Brief facts of the case as far as the case No. 20(05)2023 is concerned

is that on 24.05.2023 an FIR was lodged with the In-charge, Tyllap Police Out-Post, wherein the informant therein said to be the owner of a truck bearing registration No. ML 05K 4870 has filed the report stating that his truck was found missing from the place it was parked. Accordingly, the said Shella P.S. Case No. 20(05)2023 was registered.

4. The accused persons namely, Faridul Islam, Md. Fulchan Ali and Md. Mahidul Islam being prime suspects in the case were accordingly arrested and it may be mentioned that the accused persons were already in custody in connection with Gorchuk P.S. Case No. 173 of 2023 and therefore, the length of custodial incarceration would be more than 60 days as far as this case is concerned.

5. The investigation into the case is still ongoing, however, it is admitted by the prosecution that the I/O is yet to file the charge sheet and accordingly, the provisions of Section 167(2)(a)(ii) Cr.P.C can be set into motion. The said provision reads as under:-

“167...

(2)...

[(a)...

(ii) *sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;]*”

6. Without further discussion on this provision, needless to say that in a catena of judgments by the Apex Court, notably the case of *Rakesh Kumar Paul v. State of Assam: (2017) 15 SCC 67*, it was clearly held that in case the charge sheet could not be filed within the stipulated and mandatory period of

60 days or 90 days as the case may be, the accused person is entitled to be enlarged on default bail, if he is prepared to furnish bail.

7. This being the case, at this juncture, the accused persons represented by the petitioner herein are entitled to be enlarged on bail.

8. The above named accused persons are hereby directed to be released on bail on the following conditions:

- i. that they shall not abscond or tamper with the evidence and witnesses;
- ii. that they shall not leave the jurisdiction of India without prior permission from the I/O or the court concerned;
- iii. That they shall cooperate with the I/O or the court as and when required;
- iv. that they shall furnish a personal bond of ₹ 1,00,000/- with one solvent surety of like amount to the satisfaction of the I/O or the court concerned.

9. Needless to say, violation of the bail conditions set hereinabove would render the bail granted liable to be cancelled in accordance with due procedure to be followed.

10. This petition is hereby disposed of.

Judge

Meghalaya
28.08.2023
"Tiprilynti-PS"