Serial No. 04
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 49 of 2023

Date of Decision: 17.10.2023

Shri. Ngulkholien Khongsai Vs. State of Meghalaya & Anr.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Ms. K. Chisa, Adv.
Mr. L. Koch, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG. with
Ms. R. Colney, 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 Ms. K. Chisa, learned counsel for the petitioner as well as Mr. N.D. Chullai, learned AAG for the State respondents.

2. The learned counsel for the petitioner has submitted that this is an application under Section 439 Cr.P.C for grant of bail on behalf of the accused person, Smti. Kimneikhol Khongsai, who is represented by the petitioner herein.

3. The brief facts of the case is that the accused person has been

implicated in connection with Khliehriat P.S. Case No. 65 of 2022 under Section 21(c)/29 of the NDPS Act, which case after completion of investigation, charge sheet was accordingly filed by the Investigating Officer and a regular case being registered as Crl. (NDPS) Case No. 11 of 2022 is now proceeding before the Court of the learned Special Judge (NDPS), Khliehriat, East Jaintia Hills District. The stage of the case is for recording of evidence.

4. The learned counsel for the petitioner has however submitted that the limited prayer made in this petition is for grant of bail to the said accused person to allow her to proceed for medical treatment at the medical institute of her choice. Considering the fact that apart from other ailments suffered by her, she is also fitted with a metal implant in her left arm and, for which she was or rather is under treatment in the Valley Hospital, Silchar in the State of Assam. It is therefore prayed that this Court may be pleased to allow the accused person to go on bail to enable her to proceed to Valley Hospital for treatment or in case, the regular bail is not granted, an interim bail to allow the accused person to proceed for such medical treatment may be allowed by this Court. Any terms and conditions to be imposed by this Court will be abided by the accused person, submits the learned counsel.

5. Mr. N.D. Chullai, learned AAG has strong objection to the

prayer made in this petition and has submitted that the offence alleged to have been committed by the accused person are very serious in nature involving possession and use of alleged contraband substances, which in today's contemporary society, has wreak havoc on victims who have been lured to consume such contraband substances and as such, this being a crime against particular individuals and society at large, at this point of time, no leniency should be given to the accused. The learned AAG also submits that the medical report and opinion of competent medical practitioners who are experts in the subject, particularly from North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences, Shillong (NEIGRIHMS) have given their medical opinion after examining the accused person and the latest medical status report filed by the Senior Medical and Health Officer, District Prisons and Correctional Home, Jowai, would show that the accused person is indeed suffering from diabetes mellitus and also had a metallic implant on her left hand, however, she was referred to Jowai Hospital on several occasions for medical checkup. The accused was also referred to NEIGRIHMS for treatment of artificial implant on the left hand, and it is the advice of the attending Orthopedic Surgeon of NEIGRIHMS for the accused to undergo a surgical procedure for the removal of such implant, however, till date, the accused person has not given her consent to such medical advice, but

has insisted that the operation be performed at the said Valley Hospital, Silchar, Assam.

6. Though this Court is not in a position to fully comprehend the medical procedure involved as far as the accused person is concerned and there are also no sufficient evidence to test the competency of treatment at Valley Hospital or at NEIGRIHMS, however, from the report, the opinion given by the competent medical officer, it would show that the facilities at NEIGRIHMS and the medical attendant thereof, would be sufficient for such operation to be carried out.

7. Given the situation, this Court would impress upon the accused person to reconsider the option given and to get her medical attendance and the necessary procedure done at NEIGRIHMS, Shillong.

8. Accordingly, on the basis of the above observations made, this application for grant of bail is found to be devoid of merit, the same is hereby dismissed and disposed of.

Judge

Meghalaya
17.10.2023
"D. Nary, PS"