

Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

AB. No. 52 of 2023

Date of Decision: 10.10.2023

Shri. Gurucharan Singh Puniya Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. A.K. Bhuyan, Adv. with
Mr. J. Shylla, Adv.

For the Respondent(s) : Ms. N.G. Shylla, Sr. GA.

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

1. Heard Mr. A.K. Bhuyan, learned counsel for the petitioner as well as Ms. N.G. Shylla, learned senior GA for the State respondents.

2. The learned counsel for the petitioner has submitted that by this instant application, prayer for grant of transit bail for a period of 60(sixty) days is prayed for, the fact being that the petitioner is a resident of Jowai in

the West Jaintia Hills District, Meghalaya and given the condition that he is suffering from a number of ailments, for which he has also visited the Jowai Civil Hospital and a report being obtained from the said hospital is also annexed herein as Annexure-6. The said report would show that the complaint of the petitioner is mainly connected with backache, in fact the provisional diagnosis would show that his case is a case of chronic low backache, for which according to the petitioner, he requires to go for specialized treatment, particularly to New Delhi, but for the fact that he is in pain, he could not do so at the relevant period.

3. The learned counsel also submits that the involvement of the petitioner in connection with Sankrail P.S. Case No. 1144 of 2022 under Section 419/420/467/468/469/471/408/120B IPC in the State of West Bengal has also been referred in this connection, inasmuch as, in the said Sankrail P.S. Case, cognizance was taken of an FIR filed by Jindal (India) Limited against a number of persons and companies who are said to be accused in the case and against whom investigation has been launched. It also transpired that in course of investigation, the name of the petitioner has figured, upon which the Investigating Officer has issued a notice under Section 41-A Cr.P.C, calling upon the petitioner to appear before him at Sankrail P.S. It is, at this stage, that the plea of the petitioner becomes

apparent since as stated above, the petitioner is not in a condition to appear before the Investigating Officer because of the fact that he is required to pursue his treatment at New Delhi immediately. Therefore, this application for grant of transit bail is preferred before this Court.

4. The learned counsel for the petitioner has also submitted that it is not the intention of the petitioner not to appear before the Investigating Officer, but for an opportunity to be given to him to appear before the Investigating Officer or the court of competent jurisdiction in the State of West Bengal for necessary action from his part, on completion of his medical treatment. It is only on this limited plea that this application is filed before this Court and as such, the learned counsel prays that the petitioner may be allowed to go on transit bail for a period of 60(six) days.

5. It is also the further submission of the learned counsel that irrespective of the merits of the case, the petitioner would contest the same at the appropriate time and forum, however, since there is an apprehension of imminent arrest, therefore, this prayer is made herein.

6. The learned senior GA has strongly opposed the application, firstly, on the ground that perhaps a notice under Section 41-A could not have been issued by the concerned Investigating Officer since amongst the alleged offences, the particular section of Section 467 IPC entails a

sentence of imprisonment for life or imprisonment for 10 years and fine, the second objection raised by the learned senior GA is that, there is no specific indication by the petitioner as regard his health condition and the extent of his sickness or ailment, which would warrant this instant application on such ground. Whatever document has been placed before this Court in this connection, does not show that the petitioner is suffering to the extent that he requires treatment outside the State and also that he would not be able to appear before the Investigating Officer in response to the said notice under Section 41-A. This application being without merits, it may be dismissed is the further submission of the learned senior GA.

7. This Court having considered the submission made and also on perusal of the application in hand, would agree with the learned counsel for the petitioner that at this stage, the merits of the case, that is, the subject of investigation may not be necessary to be gone into. The Court would only consider the limited prayer made by the petitioner for grant of transit bail as has been pointed out, and reference being made to a decision of this Court in the case of *Smti. Merry Bina Marak v. State of Meghalaya & Anr*, wherein vide order dated 31.10.2018 passed in AB. No. 22 of 2018, this Court has dealt elaborately on the subject of transit bail and has come to the conclusion that there is no bar for grant of the same. Para 19 of the

said order would be relevant, the same being reproduced herein below as:

“19. For the stated reasons and the law, I hold that power to be exercised under Sections 438 and 482 CrPC rest with the High Court or Court of Sessions within whose jurisdiction occurrence or part of occurrence has taken place. However, for grant of transitory pre-arrest bail regarding non-bailable offences in the deserving cases, power of the High Court or Court of Sessions within whose jurisdiction, person resides or place where he apprehends arrest, is permissible as such not barred. Therefore, accused can invoke jurisdiction of the High Court or Court of Sessions within whose jurisdiction he resides or place where he apprehends arrest however, grant of pre-arrest transit bail can't be a matter of routine. Host of circumstance, including heinousness of the crime have to be taken care of.”

8. As observed above, though grant of pre-arrest transit bail cannot be a matter of routine, the circumstances indicated by the petitioner, that is, on ground of medical exigency, is found valid. The petitioner is accordingly allowed to go on transit bail for a period of 60(sixty) days from the date of this order. However, it is made clear that the petitioner shall not abuse the liberty given, but would confine his activities only to the extent of furtherance of his objective of getting proper medical treatment from any place of treatment of his choice. It is also made clear that at the end of the 60th day, he is directed to report before the Investigating Officer of Sankrail Police Station, Detective Department,

Howrah Police Commissionerate, 24, Belilious Road, Kadam Tala,
Howrah, West Bengal-711101.

9. Needless to say, during this period of 60(sixty) days, the petitioner shall not abscond or tamper with the evidence and witnesses connected with the case and that he shall also bind himself on a personal bond of ₹ 30,000/- (Rupees thirty thousand) only with one surety of like amount to the satisfaction of the Arresting Officer.

10. In view of the above, this application is accordingly disposed of. No costs.



Judge

Meghalaya
10.10.2023
"D. Nary, PS"