

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 58 of 2023

Date of Decision: 08.12.2023

Shri. Samsul Hoque Choudhury Vs. State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Pandit, Adv.

For the Respondent(s) : Ms. N.G. Shylla, Sr. GA with
Mr. A.H. Kharwanlang, 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 |

ORDER (ORAL)

1. Heard Mr. S. Pandit, learned counsel for the petitioner who has submitted that the petitioner is the father of the accused person Md. Masum Ahmed Choudhury who was arrested in connection with Khliehriat P.S. Case No. 10 (02) of 2023 under Section 21(b)/29 of the NDPS Act. The learned counsel has further submitted that this is a third bail application moved before this Court with the same prayer that is, for grant of bail in respect of the said accused person who is in judicial

custody for the last ten months or so. It is also the submission of the learned counsel that the case is now at the evidence stage and four out of the ten witnesses have got their evidence recorded.

2. The fresh circumstances that is canvassed by the petitioner herein is that from the evidence recorded so far, a look at the deposition of the prosecution witnesses would show that almost all of them are hearsay witnesses and no one has in fact witnessed the seizure of the alleged contraband drugs from the accused person. Though in the evidence, the witnesses have deposed to the extent that the accused person is confirmed to be involved in a drug peddling ring inasmuch as he is one of the peddlers who was working hand in hand with another co-accused and since there is also a case of kidnapping registered wherein the allegation is that the accused person in question was kidnapped for ransom, however, the prosecution's story is that the accused person in question was allegedly kidnapped in a case of failed negotiations between the parties connected to the drug peddling matter.

3. However, the learned counsel has reiterated that the accused person is not at all involved, he is an innocent person who was kidnapped for ransom and in the process, on being apprehended by the police he was accused by the other co-accused of being part of the drug peddling ring. Nothing in the evidence has come out to prove that the accused person in question is indeed involved in the alleged case of drug peddling.

4. The learned counsel has also submitted that the accused person is a young man of 20 years old and in the event if he is convicted in this case precious time would have been lost and his career and future

would be affected as a consequence thereof.

5. It is accordingly prayed that this application for grant of bail may be allowed and the accused be enlarged on bail on any conditions as deemed fit and proper to be imposed by this Court.

6. Per contra, Ms. N.G. Shylla, learned Sr. GA has opposed the prayer made in this petition and has submitted that the records as well as the evidence produced in this case have clearly brought out the fact that the accused person in question is indeed involved in the case of drug peddling. The fact being that he is a supplier of drugs and has close connection with the other co-accused wherein in the process of one such business negotiation which went awry, the accused person was allegedly kidnapped. However, it is reiterated that the fact remains that the evidence of reliable witnesses would show that based on the investigation carried out, it has been proved that the accused person is involved in the activity of drug peddling and as such, the prayer made for grant of bail may not be allowed.

7. This Court on consideration of the submission made by the learned counsel for the petitioner as well as the learned Sr. GA, what could be understood is that the accused person in question has been implicated in this case, primarily on the ground that the alleged contraband drugs was seized from the vehicle in which he was present at the time when it was intercepted. From the said vehicle seizure of the alleged contraband drugs was made and the formalities and procedure involved connected to such seizure has been complied with by the police. Thus, from the evidence available, what has been revealed is that one of the co-accused persons who was suspected to be involved in

the kidnapping of the accused person in question has revealed that the alleged contraband drugs was brought into the area by the said accused person and that he was the person who had supplied the said alleged contraband drugs to others.

8. On this piece of information, the police have accordingly taken necessary action. A bare reading of the deposition made by the prosecution's witnesses would show that there is sufficient evidence against the accused person on his alleged involvement as far as the drug trafficking angle is concerned. Though it may be too early in the day to come to any conclusion since the whole body of evidence have not yet been recorded. Be that as it may, prima facie a case has been made out against the accused person as far as his involvement in the case of drug peddling or trafficking is concerned. Of course, it would depend on the trial court as to how the evidence is to be appreciated which would not be the concern of this Court at this point of time. Suffice it to say that on an overall consideration of the facts and circumstances of this case, this Court is not inclined to allow the prayer made in this petition.

9. This petition is accordingly dismissed as devoid of merits.

10. Petition disposed of. No costs.

Judge

Meghalaya
08.12.2023
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