

GAHC010218532022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln./2855/2022

SENJAM NONGDREN KHOIMBA SINGH @ SONJAN NOTEN KHOMBA
S/O LATE MADHU SINGH,
VILL.- TAOTHANG LAMKHAI,
P.O. AND P.S.- LAMSANG,
DIST.- WEST IMPHAL, MANIPUR- 795146.

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MS. S BHUYAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 18.07.2023

Heard Mr. B. D. Knowar, learned senior counsel assisted by Ms. H. Baishya, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.

This bail application has been preferred under Section 439 of Code of Criminal Procedure, 1973, praying for bail of petitioner, namely, Senjam Nongdren Khoimba Singh @ Sonjan Noten Khomba, who has been detained behind the bar since 13.11.2017 (since last 5 years 8 months and 5 days) in connection with Bhangagarh P.S. Case No.80/2017 (corresponding to G.R. No.6124/2017), under Section 394 of the Indian Penal Code, read with Section 25(I-A)/27(2) of the Arms Act, 1959 and GR Case No. 6124/2017.

The accusation in this case is that one Rajib Nath, on 09.05.2017, lodged an FIR before the Officer In-charge of Bhangagarh Police Station, inter-alia, alleging that on that day in the evening at about 7.00 pm four persons armed with arm/pistol entered the jewellery shop belonging to the first informant and committed robbery of stock of gold jewellerys like bangle, chains and other ornaments. The total value of the looted ornaments is stated to be 3.5 crores in the FIR.

On receipt of the said FIR Bhangagarh P.S. Case No.80/2017 was registered.

The investigation was initiated and ultimately after completion of the investigation charge-sheet was laid against the four accused persons including present petitioner on 28.02.2018.

It is pertinent to mention that the present petitioner was arrested during the course of investigation on 13.11.2017 and since than he is behind the bar. Learned senior counsel for the petitioner submits that in the charge sheet only material against the present petitioner is one seizure of one empty Lee Copper bag used by the present petitioner, which is shown at Serial No. 9 of the list of articles which are shown as materials seized during the investigation against MR

No.57/17.

Learned senior counsel for the petitioner also submits that the petitioner was pursuing an advanced management program under IIM, Bangalore before his arrest and he was also doing independent research and also was an author of the book "Economics With A Human Face".

Learned senior counsel for the petitioner also submits that though the petitioner is a resident of Village Taothang Lamkhai under Lamsang police station in West imphal District of Manipur. He shall appear before the Trial Court as and when required by the Trial Court and shall co-operate in his trial.

On the other hand, learned Additional Public Prosecutor opposed the grant of bail to the present petitioner on the ground that there are incriminating materials against the present petitioner and the petitioner is a resident of Manipur and it will be difficult to procure his attendance during trial. He also pointed out that on the same ground learned trial Court also rejected his bail on 04.08.2022.

Learned Additional Public Prosecutor also submits that the petitioner is also detained in connection with another case which is pending before learned Chief Judicial Magistrate, Alipur, namely Lake P. S. Case No. 171/2017 under section 394/379 of the IPC read with section 25/27 of the Arms Act.

I have perused the scanned copy of the LCR which was requisitioned from the learned Trial Court. On perusal of the scanned copy, it appears that the charges are yet to be framed in this case, though, the charge-sheet has been laid wayback in 28.02.2018 and the present petitioner is languishing behind the bar since last 5 years 8 months and 5 days.

I have considered the submissions made by the learned counsels for both the sides.

It is apparent from the record that though the charge-sheet was laid in this case on 28.02.2018, however, for various reasons, for which the petitioner may not be faulted, the trial is yet to be commenced.

Merely because of the fact that the petitioner is a resident of State of Manipur, same may not be the ground for denying bail to the present petitioner if his attendance may otherwise be procured in the case, which is pending before the learned Judicial Magistrate, First Class, Kamrup (Metro), Guwahati.

If the attendance of the present petitioner may be procured and it may be ensured that he will face the trial, there is no justification for his continued detention, more so, considering the fact that he has already been detained behind the bars for more than 5 years 8 months and 5 days without trial being commenced.

In view of above, the petitioner, namely, Senjam Nongdren Khoimba Singh @ Sonjan Noten Khomba is allowed to go on bail on furnishing of bail bond of Rs. 1,00,000/- (Rupees One lakh only) with two sureties of like amount, the sureties should be Government servant, one of them should be from the State of Assam to the satisfaction of the learned Judicial Magistrate, First Class, Kamrup (Metro), Guwahati, with following conditions:

1. If the petitioner is possessing the passport, he shall surrender the passport before the learned Trial Court at the time of submitting the bail bond, and
2. During the pendency of trial, the petitioner shall not leave jurisdiction of learned Trial Court without the leave of the Trial Court and he shall furnish his contact and email id.

3. He shall also co-operate in his trial and shall make himself available as and when so required by the learned Trial Court.

With the above, observation, this bail application is accordingly disposed of.

JUDGE

Comparing Assistant