

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

Crl.Rev.P. No. 22 of 2023

Shri Sonlensei Haokip, aged about 23 years, S/o
Thanglun Haokip, resident of G. Khonom Village, P.O.
& P.S. Sangaikot, District: Churachandpur, Manipur
presently under detention at Manipur Central Jail,
Imphal, P.O. & P.S. Imphal, District: Imphal West,
Manipur – 795001.

Petitioner

Vs.

The State of Manipur represented by the
Commissioner/Secretary (Home), Government of
Manipur, Manipur Secretariat, P.O. & P.S. Imphal,
District : Imphal West, Manipur : 795001.

Respondent

B E F O R E

HON'BLE THE CHIEF JUSTICE MR. SIDDHARTH MRIDUL

For the Petitioner :: Mr. L. Shashibhushan, Sr. Adv.

For the respondents :: Mr. RK Umakanta, PP

Date of Hearing &
Judgment & Order :: **23.02.2024**

**JUDGMENT & ORDER
(ORAL)**

1. Heard Mr. L. Shashibhushan, learned senior counsel, appearing on behalf of the petitioner and Mr. RK Umakanta, learned PP, appearing on behalf of the State of Manipur.

2. The solitary question that arises for consideration in the present criminal revision petition is whether in the absence of the report of the Public Prosecutor, indicating the progress of the investigation and seeking extension of the period of 180 days stipulated for the completion of the investigation, by assigning specific reasons for the detention of the accused beyond that statutory period; the latter is entitled to be enlarged on default bail.

3. The facts that are necessary for the determination of the present petition are briefly encapsulated as under :-

- i) on the 9th of May, 2022, at around 11 AM, when Shri Sonlensei Haokip (the petitioner herein) and his friend Jamgoulen Haokip were returning from Dimapur; they were detained by the police predicated on the alleged recovery of narcotic drugs from the vehicle in which they were travelling;
- ii) the police promptly registered FIR Case No. 17(5) 2022 KPI-PS, U/S 21(c)/29/60(3) (Narcotic Drugs and Psychotropic Substances Act, 1985) (hereinafter referred to as the Act) *inter alia* against the petitioner, who was also immediately placed under arrest on the same day i.e. 9th of May, 2022; produced before the concerned Court; and remanded to police custody in the first instance; and judicial custody thereafter.

4. Admittedly, the Investigating Officer (hereinafter referred to as I.O.) did not file the charge sheet— although the same is stated to have now been filed — within the period of 180 days stipulated in terms of the provisions of Section 36-(A)(4) of the Act.

5. On the 8th of November, 2022, after the statutory period of 180 days had already elapsed on the 5th November, 2022; the petitioner instituted an application seeking enlargement on bail, on the basis of the legal position that, since statutory period of 180 days custody had already elapsed; and no charge sheet had been filed within the stipulated time; he was entitled to be released on default bail. The said bail application filed by the petitioner came up for hearing before the Court of Special Judge (ND&PS) Senapati, Manipur on the same day i.e. 8th November, 2022, when the Court was pleased to issue notice to the learned Public Prosecutor for the 15th November, 2022.

6. However, in the meantime, on the 9th November, 2022, the learned Special Judge (ND&PS) Senapati, on an application filed by the I.O. concerned, unilaterally extended the period of the petitioner's custody for a further period of 180 days, purportedly in the exercise of power vested under the provision of Section 36-(A)(4) of the Act.

7. Aggrieved by the said order dated 9th November, 2022, the petitioner has instituted the present revision petition praying as follows :

"(i) To admit this revision petition.

(ii) To call for the records of the case.

(iii) To set aside the order dated 09/11/2022 as in Annexure-X/2 to the petition.

(iv) To pass such other order or orders as your Lordships' deem fit and proper in the facts and circumstances of the case for the ends of justice."

8. In view of the facts as elaborated hereinabove, it is evident that the stipulation contained in Section 36-(A)(4) of the Act has been followed by the trial Court, manifestly in breach of the express condition statutorily enshrined therein. In other words, it is axiomatic that no report, as required within the meaning of that provision, had been filed on behalf of the Public Prosecutor, indicating the progress of the investigation and the special reasons for the detention of the petitioner beyond the said period of 180 days. The prosecution cannot be heard to say that the provision empowers the I.O., to file an application dispensing with the statutory requirement of the submission of the report of the Public Prosecutor, in this behalf.

9. In this view of the matter, the issue struck hereinabove for consideration in the present petition, is answered in favour of the petitioner and against the State; and the order dated 09.11.2022, impugned in the present petition is opined to be manifestly contrary to the mandate of Section 36-(A)(4) of the Act, and accordingly set aside.

10. The petitioner having remained in custody for a period of 180 days reckoned from 10th May, 2022 to the 5th November, 2022; was entitled to be enlarged on default bail on his having instituted an application in that behalf

before the Special Judge (ND&PS) Senapati, Manipur on the 8th November, 2022; prior to the institution of the application filed on behalf of the I.O. in FIR Case No. 17(5) 2022 KPI-PS, U/S 21(c)/29/60(3) ND & PS Act. *A priori* the petitioner was *ex-debito justitiae* entitled to bail, since the prosecution had clearly failed to file the report of the Public Prosecutor seeking detention of the petitioner beyond the stipulated period of 180 days, as required by law.

11. Resultantly, the petitioner is directed to be enlarged on bail during the pendency of the trial subject to compliance with the following terms and conditions :-

- (i) the petitioner is ordered to be enlarged on bail in connection with FIR Case No. 17(5) 2022 KPI-PS, U/S 21(c)/29/60(3) ND & PS Act subject to furnishing a personal bond of Rs.1,00,000/- (Rupees One Lakh) with two local sureties each of the like sum to the satisfaction of the learned Special Judge (ND&PS) Senapati, Manipur;*
- (ii) He shall not leave the State of Manipur without prior permission of the trial court;*
- (iii) He shall appear before the trial court in every date fixed for the proceeding in the trial court in relation to FIR Case No. 17(5) 2022 KPI-PS, U/S 21(c)/29/60(3) ND & PS Act;*

(iv) He shall present himself before the I.O. on the first of every month in the forenoon and shall not be detained there longer than is warranted.

12. Accordingly, this criminal revision petition is allowed and disposed of.

Sushil

CHIEF JUSTICE