

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

AB No. 38 of 2022

1. Yumnam Shyam Singh, aged about 50 years, S/o Y. Munal Singh, resident of Leishangthem Awang Leikai, P.O., P.S. & District Thoubal, Manipur.
2. Yumnam Ringo Singh, aged about 18 years, S/o Shri Yumnam Shyam Singh, resident of Leishangthem Awang Leikai, P.O., P.S. & District Thoubal, Manipur.

.... Petitioners

- Versus -

1. The State of Manipur represented by the Commissioner/Secretary/Special Secretary (Home), Government of Manipur, Manipur Secretariat, Imphal West and Manipur – 795001.
2. The Officer-in-Charge, Women Police Station, Thoubal Police Station, Manipur.

.... Respondents

**B E F O R E
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU**

For the petitioners : Ms. A. Noutuneshwari, Advocate
For the respondents: Mr. Y. Ashang, Public Prosecutor
Date of hearing : 01.02.2024
Date of order : 16.02.2024

O R D E R
(CAV)

[1] Ms. A. Noutuneshwari, learned counsel appears for the petitioner and Mr. Y. Ashang, learned PP appears for the respondents.

[2] The petitioners filed the instant bail application under Section 438 of the Code of Criminal Procedure, 1973 with the following prayer:

- (i) Call for the record of the case and issue rule nisi calling upon the respondents to show cause as to why the prayer prayed for by the petitioners shall not be granted. And, after hearing them make the rule absolute;
- (ii) Grant pre-arrest bail in favour of the petitioner in the event of arrest of the petitioner by the personnel of the Thoubal Police Station, in connection with the said FIR No. 15(07)/2022-WPS-TBL u/s 325/354/506/34 IPC.

[3] The petitioners have been residing at Thoubal Leishangthem Awang Leikai, P.O., P.S. & District Thoubal, Manipur by constructing their dwelling houses and residing therein. A number of false charges have been made against the petitioners as well as the wife of the petitioner No. 1. Being apprehension of arrest, the petitioners as well as the wife of the petitioner No. 1 have approached the Ld. Additional Sessions Judge (FTC), Manipur East by filing separate anticipatory bail applications for granting pre-arrest bail. The Ld. Sessions Judge (FTC) Manipur East granted interim pre-arrest bail in favour of the petitioners and the wife of the petitioner No. 1 by registering of Cril. Misc. (AB) No. 24 of 2022, 25 of 2022 and 26 of 2022 and the same have been extended from time to time and the matters are fixed for 14.08.2022. One, Thounaojam Nepolean Meitei, S/o Th. Nimai Meitei of Moirang Purel made a complaint dated 18.04.2022 (Annexure – A/2) to the S.P. Thoubal, Manipur against one, Wakongthem Kirankumar Singh for non-

payment of huge amount of money in which the petitioners are the witnesses.

[4] The Officer-in-Charge, Thoubal Police Station called the petitioners and the said persons and obtained the signatures of the petitioner No. 1 and the said person in a promissory note and undertaking dated 27.04.2022. Thereafter, the petitioner and the said person approached the Ld. Sessions Judge, Thoubal for granting pre-arrest bail by filing Cril. Misc. (AB) Case No. 44 of 2022. The Ld. Sessions Judge, Thoubal granted interim pre-arrest bail and the same has been extended till date. Operative portion of the order dated 12.05.2022 passed in the case aforementioned (Annexure – A/5) reads as follows:

"Perused the applications considering the facts as disclosed in the application, the matter will be considered after a detail report is further by the O.C. Thoubal P.S.

Hence, the O.C. Thoubal P.S. submitted a detailed report of the application.

In the meantime, interim pre-arrest bail is granted to the petitioners thus it is directed that in the event of arrest in connection with matter the petitioners shall be released on interim bail on their furnishing P.R. Bond of Rs. 1,00,000/- (Rupees one lakh) only each with one surety of the like amount on the conditions that;

- 1) The petitioner shall cooperate with the investigation.*
- 2) The petitioner shall make themselves available before the investigation authority not later than 21-05-2022.*
- 3) The petitioner shall not influence prosecution witnesses, and*
- 4) The petitioner shall not leave the State of Manipur prior permission of the Court.*

Furnish a copy of the application along with a copy of this order to the Ld. Addl. PP and SP, Thoubal.

Fix 21-05-2022 for report and hearing.

Petitioner is to take steps according to section 438 Cr.P.C."

[5] The FIR being FIR No. 15(7)2022 WPS-TBL U/S 325/354/506/34/IPC dated 08.07.2022 was registered based on the complaint, dated 08.07.2022 (Annexure – A/6), made by one, Mrs. Thounaojam Pushparani Devi to the Women Police Station, Thoubal P.S. by making fictitious charges.

[6] The petitioners filed Cril. Misc. (AB) Case No. 63 of 2022 praying for granting pre-arrest bail. The Ld. Sessions Judge, Thoubal vide the order dated 08.03.2022 rejected the said A.B. Application (Annexure – A/7). Operative portion of the order reads as follows:

"For the above reasons made, there are no good grounds for granting the relief of pre-arrest bail to the petitioners. Hence, bail is denied to the petitioners.

A copy of this order be furnished to the O.C. WPS-Tbl for information & n.a.

O.C. WPS-Tbl is directed to comply with the directions given in Arnesh Kumar's and submit ATR at the earliest.

Announced."

[7] The I.O. of the case submitted bail objection report wherein it was stated that she herself visited the JNIMS Hospital for taking injuries report with the OPD ticket enclosed by the said Th. Pushparani Devi in her complaint. However, it was noticed that there is no record for treatment of the complainant. In case the Ld. Sessions Judge, Thoubal looked into the said report, absolute pre-arrest bail would have been granted but the said anticipatory bail application was rejected. Hence, the present anticipatory bail application has been filed.

[8] The petitioners have filed affidavit in rejoinder to the objection affidavit filed by the respondents that the respondents have been trying to mislead the Hon'ble Court by twisting the facts of the case.

[9] Heard both the learned counsel appearing for the parties at length.

[10] The allegation against the petitioners are that the petitioners assaulted the complainant, Th. Pushparani Devi and outraged her modesty criminal intimidation and common intention. But, on perusal of the anticipatory bail objection report (Annexure – A/9) submitted by the I.O. of the case to the Ld. Sessions Judge, Thoubal, it is found that the I.O. requested to furnish a copy of the medical report basing on one, Out Patient

Record certificate in which, it was mentioned pain on the abdomen and referred to surgery. The staff of JNIMS Hospital, Porompat refused to receive the injury report stating that there is no entry in the MNC Register of JNIMS Hospital, Porompat for medical treatment of Th. Pushparani Devi on 05.07.2022.

[11] But, later on, the complainant produced one, **"to whom it may concern"** certificate issued by one, Dr. N. Dwijamani Singh, Senior Consultant Physician of Advance Speciality Hospital and Research Institute dated 11.07.2022. It is to mention herein that the incident of the alleged assault was occurred on 03.07.2022 and as per the JNIMS Hospital out patient treatment record, the complainant went to the JNIMS Hospital for treatment on 05.07.2022 and **"to whom it may concern"** certificate issued by Dr. N. Dwijamani Singh was dated 11.07.2022.

[12] Considering these facts as meted out herein above, this Court is of the view that the injury, if at all, is inflicted due to the assault made to the complainant by the accused. The nature of injury was not a grievous one and on top of that, the incident occurred on 03.07.2022 and now it is February, 2024 i.e. more than 1 (one) year has passed and till date, the I.O. of the case failed to place on record the nature of injury of the complainant. Considering the nature of offence, the nature of the facts, put out by both the present petitioners as well as the complainant, seems to be civil in nature.

[13] In the case of ***Ram Das Vs State of West Bengal*** reported in ***AIR 1954 SC 711***, the Hon'ble Supreme Court held that:

"In the absence of any evidence as to any gesture made by the accused, the evidence that he was staring with lustful eyes, had to be discarded as giving any indication to his intention to his intention because such an impression is more psychological than factual. In view of the fact, that a quarrel had preceded the push, and that the women were not alone but had male companions who had taken part in the quarrel, the prosecution case as to the accused having attempted to outrage the women's modesty had to be rejected, in the

absence of any clear and unimpeachable evidence as to his intention to outrage their modesty, or as to his knowledge that by his conduct he was likely to outrage their modesty."

[14] In view of the above provision of law assailed by the Hon'ble Supreme Court, this Court does not find any material for outraging the modesty of woman and mere assaulting which is purported to be meted out to the complainant by the petitioners will not amount to outraging modesty of woman.

[15] With the above discussion and findings, the interim bail is made absolute. The petitioners are released on bail on their furnishing PR bond of Rs. 1,00,000/- (Rupees one lakh) each with surety of like amount to the satisfaction of the concerned Court with direction to the petitioners to appear before the concerned District Court whenever required till the investigation is completed.

[16] Accordingly, the anticipatory bail is disposed of.

JUDGE

FR/NFR

Bipin