

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

AB No. 50 of 2023

N Popilal Singh

...Petitioner/s

- Versus -

Officer in Charge City P.S.

...Respondent/s

B E F O R E

HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU

02.05.2024

[1] Heard Mr. N. Jotendro, learned senior counsel assisted by Md. Abdul Baqee Khan, learned counsel appearing for the petitioner and Mr. M. Devenanda, learned Addl. AG assisted by Ms. N. Jyotsana, learned counsel appearing for the State respondent.

[2] The present petition is filed by the petitioner u/s 438 of the Cr.P.C, 1973 praying for releasing the accused/petitioner on bail in the event of his arrest made by the Police personnel of City Police Station, Imphal West in connection with FIR No. 62(10)2023 City P.S. u/s 147/149/188/353/325 IPC later added section 307/332/511 IPC on the ground that the petitioner shall co-operate with the investigation carried out by the Police personnel of the City Police Station, Manipur and shall abide by the condition/conditions imposed by the Hon'ble Court under relevant provisions of the Section 438 Cr.P.C, 1973.

[3] Mr. N. Jotendro, learned sr. counsel for the petitioner undertook to make the accused/petitioner appear either before the Trial Court or the I.O of the FIR case as and when required to do so.

[4] Mr. M. Devananda, learned Addl. AG submits counter affidavit to the petition of the petitioner as referred to by the Ld. Addl. AG, para Nos. 5, 6 & 7 of the counter affidavit are reproduced herein below;

"5. That, the answering deponent begs to submit that the said unlawful assembly was organized by the 10 Political Parties Violating the duly promulgated prohibitory orders u/s. 144 Cr.P.C. vide Order No. DMIW/1/57/CON/2009-P(III) dtd. 8/10/2023 of Hon' ble ADM-Imphal West. The undernoted accused person, N. Popilal Singh is also one of the main conspirators of the unlawful assembly and he personally participated in the unlawful assembly as a leader. The accused person, A. Deben Singh and co-accused, N. Popilal Singh even resorted in assaulting the police officers on duty thereby obstructing the duties of the police. Even though the violators were very violent and assaulted the Police Officers on duty, the state force tried to control the situation by only means of persuasion, without using any physical force. The accused person namely N. Popilal Singh and co-accused i.e. Achoibam Deben Singh started to create an unlawful incident and they provoked, abetted, and instigated other agitators and N. Popilal Singh started assaulting the police officer with the help of other co-accused persons resulting hurt and physical injuries of the Police Officer.

Further, it is submitted that the fact of case is that while performing the official duties of the police in the broad day light, the said Police officers were deterred and obstructed by the accused person namely N. Popilal Singh and A. Deben Singh along with their associates. They started threatening and assaulting the public servant and further tried to snatch the service gun as well as wireless set of the complainant. The accused person even instigated other agitators and later the mob even attempted to murder the public servant by pushing, bumping and assaulting him on a Police vehicle which is clearly seen in a viral video and which was spread in social media platform "Reporter Diary. From the above facts, it clearly shows that the safety of even a law enforcing agency i.e., police officers is not spared in the fact situation, the safety of the people of Manipur living in the state will be compromised if the accused is not arrested. Doing such illegal criminal act to a law enforcing agency i.e., to a police officer and from the above facts cited, if the accused person is granted Anticipatory Bail by the Hon'ble Court in this initial stage of investigation then such act will encourage the culprits to continue their crimes and violent acts in the future thereby disturbing the law and order situation in the state which is a serious matter to be considered by this Hon'ble Court.

6. That, the answering deponent begs to submit that during the further course of investigation, house searches were made to arrest the undernoted accused person N. Popilal Singh (the present petitioner) on different dates and times but not fruitful, as the accused person fled away/absconded from his house as well as from other related dwelling places of the accused person. Further, on visiting the house of the accused person, many local Meira Paibis and other associates again deterred the Police Officials from discharging the duties of the police by means of unlawful force/Gherao, as well as, to provoke another mob in the area/locality of the accused person. Intimation was also made to the family members of the accused person to co-operate in the case but still no positive response from any of the family members was received and

accused does not co-operate the I.O. of the case and he is absconding/evading Police summons to appear.

7. That, the answering deponent begs to submit that being a political person and a man of position he is likely to create another nuisance or commit another serious crime by organizing such incident in the near future and the custodial interrogation of the accused person is highly required to ascertain the fact and circumstances of why he assaulted, provoked to create such incident and even attempt to murder the public servant i.e. a police officer who was in full uniform performing his official duty and how accused with the mob even tore police uniform in front of everyone. In this initial stage of investigation, if the accused person is granted Anticipatory Bail, he may elude that he is well protected and insulated by a pre arrest bail order during the time he is interrogated."

[5] Mr. M. Devananda, learned Addl. AG objected to the prayer to make the interim order absolute and relying upon the following Hon'ble Supreme Court's judgment in support of his case which is reproduced herein below;

1. (2012) 4 SCC 379; para No. 19.

"19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been entangled in the crime and would not misuse his liberty."

2. (2018) 7 SCC 731; para No. 6.

"6. This Court in HDFC Bank Ltd. v. J.J. Mannan has referred to a contention based on the Constitution Bench decision in Sibbia and yet it has taken the view that the protection under Section 438 is only till the investigation is completed and charge-sheet is filed. To quote paras 14 and 18 to 21: (J.J. Mannan case, SCC pp. 682-84)

"14. Referring to the decision of the Constitution Bench in Gurbaksh Singh Sibbia v. State of Punjab, wherein the application of Section 438 CrPC had been considered in detail, Mr Dutta submitted that the said provision had been interpreted to be a beneficent provision relating to personal liberty guaranteed under Section 21 of the Constitution. Mr Dutta submitted that the Constitution Bench had observed that since denial of bail amounts to deprivation of personal liberty, the court should lean against the imposition of unnecessary restrictions on the scope of Section 438 CrPC.

18. Furthermore, it has also been consistently indicated that no blanket order could be passed under Section 438 CrPC to prevent the accused from being arrested at all in connection with the case. To avoid such an eventuality it was observed in Adri Dharan Das case that anticipatory bail is given for a limited duration to enable the accused to surrender

and to obtain regular bail. The same view was reiterated in Salauddin case wherein it was, inter alia, observed that anticipatory bail should be of limited duration only and primarily on the expiry of that duration or extended duration, the court granting anticipatory bail should leave it to the regular court to deal with the matter on an appreciation of evidence placed before it after the investigation has made progress or the charge-sheet is submitted.

19. The object of Section 438 CrPC has been repeatedly explained by this Court and the High Courts to mean that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. But at the same time the provisions of Section 438 CrPC cannot also be invoked to exempt the accused from surrendering to the court after the investigation is complete and if charge-sheet is filed against him. Such an interpretation would amount to violence to the provisions of Section 438 CrPC, since even though a charge-sheet may be filed against an accused and charge is framed against him, he may still not appear before the court at all even during the trial.

20. Section 438 CrPC contemplates arrest at the stage of investigation and provides a mechanism for an accused to be released on bail should he be arrested during the period of investigation. Once the investigation makes out a case against him and he is included as an accused in the charge-sheet, the accused has to surrender to the custody of the court and pray for regular bail. On the strength of an order granting anticipatory bail, an accused against whom charge has been framed, cannot avoid appearing before the trial court.

21. If what has been submitted on behalf of the appellant that Respondent 1 has never appeared before the trial court is to be accepted, it will lead to the absurd situation that charge was framed against the accused in his absence, which would defeat the very purpose of sub-section (2) of Section 240 CrPC."

[6] Gone through the petition of the petitioner and counter affidavit filed by the State respondent and also the impugned judgment and order dated 27.10.2023 passed in Cril. Misc. (AB) No. 76 of 2023 by the learned Sessions Judge, Imphal West.

[7] Since both the learned counsel for the parties admitted that the accused/petitioner are co-operating with the investigation of the FIR case and since the learned counsel for the petitioner undertook to make the appearance of the accused/petitioner whenever required either before the Trial Court or the I.O. of the FIR case, the interim bail order dated 02.11.2023 passed is made absolute and the accused/petitioner is directed to furnish a PR bond of Rs. 1,00,000/- (Rupees One Lakh) only with a surety

of like amount to the satisfaction of the I.O of the FIR case with direction that the accused/petitioner should not leave the State of Manipur without prior permission from the Court and should co-operate in the investigation of the FIR case and appear before the I.O of the FIR case and before the Trial Court as and when required, if any of conditions is violated by the petitioner, the respondents police are at liberty to approach this Court for cancellation of bail.

[8] Accordingly, the present Anticipatory Bail No. 50 of 2023 is disposed of.

[9] Copy of this order may be furnished to the learned counsel for the parties.

[10] Send an extract copy of this order to the Trial Court.

JUDGE

Lucy

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GURUM
AYUM** Digitally signed
by LUCY
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