

Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

AB. No. 1 of 2024

Date of Order: 08.02.2024

Shri. Shirajul Ali

Vs.

State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

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

For the Respondent(s) : Mr. H. Kharmih, Addl. PP.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

ORAL:

1. Heard Mr. S.K. Hassan, learned counsel for the petitioner, who has submitted that an FIR was lodged before the Rajabala Police Station on 21.10.2023, wherein it was alleged that the son of the informant on the way to his relative's resident at Kandergoan village, was attacked by five persons resulting in bodily injuries to his son. The FIR was accordingly registered as Rajabala P.S. Case No. 14(10) 2023 under Section 324/307/34 IPC.

2. The petitioner herein has admitted that the said incident happened in his presence, however, the fact is that he had made an attempt to rescue the victim, but to his surprise, he was also implicated in the case and the police are on the lookout for his arrest. Thus, apprehending arrest, this application is now filed before this Court under Section 438 Cr.P.C with a prayer for grant of pre-arrest bail.

3. The learned counsel has also submitted that the petitioner is a student of class XII studying at Bhaitbari Higher Secondary School, West Garo Hills, and is due to appear for his final examination which will commence from 20.02.2024. It is also further submitted that there is no criminal antecedent as far as the petitioner is concerned, and being a young man of 19 years old, if arrested, his reputation and future would be in jeopardy not to speak of his mental state as far as preparation for the upcoming examination is concerned.

4. Again, it is submitted that this Court vide order dated 30.01.2024, had allowed the petitioner to go on interim bail with a direction for him to cooperate with the Investigating Officer and accordingly, the petitioner had met the Investigating Officer on 02.02.2024 and his statement was accordingly recorded. It is therefore

prayed that this application may be allowed and the petitioner may be granted pre-arrest bail with any conditions as deem fit and proper to be imposed by this Court.

5. Mr. H. Kharmih, learned Addl. PP appearing on behalf of the State respondent, on the other hand, has strongly opposed the prayer made, and has submitted that the petitioner has previously filed a similar bail application before the Sessions Court which was rejected, the reason being that his involvement in the assault case has been established, prima facie, on the account of eye witnesses, two of them having given their statements before the police.

6. The learned Addl. PP has also submitted that the victim was assaulted by a sharp weapon as is evident from the medical report, and accordingly, a case of attempt to murder under Section 307 IPC is made out. Considering the gravity and seriousness of the offence, it is submitted that the prayer of the petitioner for grant of pre-arrest bail may not be allowed at this stage.

7. This Court, has considered the submission made, and has also perused the application as well as copy of the case diary produced before this Court today. Firstly, as far as the nature of injuries sustained by the

victim is concerned, the medical report dated 20.10.2023 filed by the Medical Officer, Bhaitbari CHC, would show that the patient/victim was brought to the hospital on complaint of physical assault, the cause of assault was infliction by a sharp weapon. However, at that point of time, the observation as far as the injury is concerned, is that it was a simple injury.

8. On perusal of the statement made by the eye witnesses, what is noticed is that the said eye witnesses have witnessed the incident and have also named some of those persons involved. The person who was holding the sharp weapon or knife and who has allegedly stabbed the victim, was not the petitioner herein, however, the petitioner was also named as one of those persons who has held the victim when the incident occurred.

9. At this point of time, it would not be proper to come to any definite conclusion in this regard, suffice it to say that the investigation would be allowed to take its own course till the Investigating Officer complete the same and the charge sheet is filed.

10. As far as the prayer of the petitioner is concerned, considering the fact that he is a young person and is to appear for his examination, this Court, on this ground, is inclined to allow the prayer made.

11. Accordingly, in the event of his arrest, the petitioner Shri. Shirajul Ali shall be released on bail with the following conditions that:

- i) He shall not abscond or tamper with the evidence and witnesses;
- ii) He shall not leave the jurisdiction of the State of Meghalaya without prior permission of the court;
- iii) He shall appear before the Investigating Officer or the court concerned as and when required;
- iv) He shall bind himself on a personal bond of ₹ 30,000/- (Rupees thirty thousand) only with one surety of like amount to the satisfaction of the Investigating Officer.

12. As observed above, this application is accordingly disposed of.

No costs.

Judge

Meghalaya
08.02.2024
"D. Nary, PS"