

Serial No. 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

AB. No. 4 of 2024

Date of Order: 20.03.2024

Shri. Irshad Alom, Son of Shri.
Obir Rahman, resident of Village-
Shidakandi, P.O. New Bhaitbari,
P.S. Rajabala, District West Garo
Hills, Meghalaya

::::: Petitioner

-Vs-

State of Meghalaya, Represented
by the Commissioner & Secretary,
Home Police Department,
Government of Meghalaya.

::::: Respondent

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

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

For the Respondent(s) : Mrs. N.G. Shylla, Sr. GA.

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 this application under Section 438 Cr.P.C has been filed with a prayer for grant of pre-arrest bail in connection with Rajabala P.S. Case No. 14 (10) 2023 under Sections 324/307/34 IPC, wherein on an FIR lodged before the Officer-in-Charge, Rajabala P.S, Rajabala, West Garo Hills, Meghalaya by the informant, who is the father of one Shri. Shamim Imran Sarker, alleging that his son was attacked by five persons, one of whom is the petitioner herein and as a result of which, he was stabbed by a knife and thereby, received grievous injuries on his person. Subsequently, the police on verification, has registered the said Rajabala P.S. Case No. 14 (10) 2023 and investigation was launched.

2. The learned counsel has also submitted that the petitioner herein being apprehensive of imminent arrest, has approached the Sessions Court at Tura, West Garo Hills District, praying for grant of pre-arrest bail, however, his two applications have been rejected. He is now before this Court with this instant application.

3. One of the main grounds in support of his case, raised by the learned counsel for the petitioner is that this Court, had, vide relevant orders granted pre-arrest bail to some of the co-accused herein and as such, on the ground of parity, the prayer of the petitioner may also be allowed.

4. Secondly, it is also submitted that the petitioner is a young person of about 20 years old and is a student of Madrassa and studying Moulana course. He hails from a humble and respectable family, and, if arrested, his future and reputation would be jeopardized.

5. Thirdly, the learned counsel has submitted that the petitioner has no criminal antecedents and as such, if in the event of his arrest he is enlarged on bail, he is willing to abide by any conditions fit to be imposed by this Court.

6. Mrs. N.G. Shylla, learned senior GA appearing for the State respondent, has vehemently opposed the prayer made by the learned counsel for the petitioner, firstly, on the ground that the application is filed seeking bail on the principle of parity, wherein there is no evidence to show that the case of the petitioner herein is similar to the case in which this Court has granted relief to the petitioner therein.

7. Secondly, since the offence involved inter alia, is one under Section 307 IPC which is serious offence, therefore, the prayer of the petitioner may not be granted at this point of time.

8. Thirdly, the learned senior GA has submitted that the last bail application filed by the petitioner was in the month of January, 2024

almost two and a half months have expired since then, yet the petitioner has not been arrested, which indicates that there is no apprehension whatsoever as far as he is concerned. On these grounds, the prayer made in this application is hereby opposed.

9. This Court has given considerable thought to the submission made. It is evident that investigation is still going on and the Investigating Officer is yet to file the charge sheet. The Court has no record of the status of investigation at this point of time.

10. Be that as it may, taking into account the fact that the petitioner is a young person who is a student and also the fact that he has agreed to bind himself with any conditions fit to be imposed by this Court, including the fact that he shall not abscond and that he shall cooperate with the investigation, this Court in the particular facts and circumstances of this case is inclined to allow the prayer of the petitioner. Consequently, the prayer made is allowed.

11. In the event of his arrest, the petitioner is directed to be released on bail on 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 due prior permission from the Investigating Officer or the court concerned;
- iii) He shall appear before the Investigating Officer as and when required;
- iv) He shall personally bind himself on a bond of ₹ 30,000/- (Rupees thirty thousand) only with one surety of like amount to the satisfaction of the Investigating Officer.

12. In view of the above, this application is accordingly disposed of. No costs.

Judge

Meghalaya
20.03.2024
"D. Nary, PS"