

Serial No. 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 8 of 2024

Date of Order: 03.04.2024

Shri. Samsul Hoque Choudhury
Aged about 42 years
Son of (L) Abdul Bari
Choudhury
R/o Village-Noon Nagar,
PS: Katigorah,
Cachar District, Assam

::: Petitioner

-Vs-

1. State of Meghalaya,
Represented by
The Superintendent of Police
East Jaintia Hills District,
Khliehriat, Meghalaya

2. The Officer-in-charge
Khliehriat Police Station
East Jaintia Hills District,
Khliehriat, Meghalaya

::: Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. R. War, Adv. with
Ms. P. Paswett, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG. with

Mr. S. Sengupta, Addl. PP.
Mr. E.R. Chyne, 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. R. War, learned counsel for the petitioner, who has submitted that the petitioner is the father of the accused person named, Md. Masum Ahmed Choudhury, who was arrested in connection with Khliehriat P.S. Case No. 10(02) 2023 under Section 364A/34 IPC read with Section 21(b) of the NDPS Act.
2. On investigation being completed, charge sheet was filed and the son of the petitioner along with other co-accused have been forwarded to the competent court of jurisdiction to stand trial, wherein a case being CrI. NDPS Case No. 02/2023 was registered. The stage of the case at present is that four out of ten prosecution witnesses have been examined.
3. The learned counsel for the petitioner has also submitted that it is a fact that three bail applications have been moved on behalf of the said accused person Md. Masum Ahmed Choudhury which was rejected on the grounds specified therein, however, since the order passed in the last BA.

No. 58 of 2023 dated 08.12.2023, fresh circumstances have arisen, inasmuch as, in the meantime, the co-accused involved in the case along with the said accused person have since been released on bail by the relevant order of the learned Trial Court. It is on the ground of parity that the petitioner has now approach this Court seeking similar relief for grant of bail.

4. Mr. N.D. Chullai, learned AAG appearing on behalf of the State respondents has strongly objected to the submission made and has submitted that this Court in its previous order when bail was sought for, had observed that the accused person in question is involved in the offence alleged and as such, bail was denied. The same situation is persisting and under such circumstances, the prayer of the petitioner may not be allowed.

5. It is also the submission of the learned AAG that four out of ten prosecution witnesses have been examined and it is just a matter of a few months that the other witnesses will be examined. He therefore submits that the accused person may not be enlarged on bail at this point of time.

6. This Court has considered the submission made, and irrespective of the observations made in its earlier order, it is, but logical to expect that prima facie, observations are made as to the complicity or

involvement of the concerned accused. However, it need not be reminded that eventually, it would be a matter of evidence to prove the case of the prosecution. As far as bail is concerned, it would be an injustice to the accused concerned, if he is not released on bail at this stage, since the other co-accused who faced the same charges have already been released on bail. On this ground alone, this Court is of the opinion that this application deserves to be considered.

7. Accordingly, the accused person Md. Masum Ahmed Choudhury is hereby 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 India without prior permission of the Trial Court;
- iii) He shall appear before the court concerned as and when required;
- iv) He shall bind himself on a personal bond of ₹ 50,000/- (Rupees fifty thousand) only along with one surety of like amount to the satisfaction of the Trial Court.

8. Needless to say, the accused person as well as the bailor are directed to give their complete particulars before the Trial Court as regard the place of residence, mobile number, etc.

9. In view of the observations made above, this application is accordingly disposed of. No costs.

Judge

Meghalaya
03.04.2024
"D. Nary, PS"