

Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 19 of 2024

Date of Decision: 13.05.2024

SMTI. IAIPHIRA KHARHUNAI,
Daughter of Bashisha Kharhunai,
Wife of Shri. Marwin Jyrwa,
Resident of H/No. 91, Mawlai, Kynton Massar
Shillong,
District East Khasi Hills,
Meghalaya

: : : : PETITIONER

-Vs-

1. State of Meghalaya
Represented by its Secretary
Home (Police) Department
Government of Meghalaya
Shillong, Meghalaya
2. The Deputy Superintendent of Police (Crime)
Khliehriat,
District East Jaintia Hills
Meghalaya

: : : : RESPONDENTS

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. M.F. Qureshi, Adv. with
Mr. L. Koch, Adv.

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

Ms. I. Lyngwa, GA.

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

ORDER (ORAL)

1. Heard Mr. M.F. Qureshi, learned counsel for the petitioner, who has submitted that this is an application under Section 439 Cr.P.C for grant of bail in favour of the accused person Shri. Marwin Jyrwa, who was arrested in connection with CrI. (NDPS) Case No. 9 of 2022 pending before the Court of the learned Special Judge (NDPS), East Jaintia Hills District, Khliehriat.

2. The only ground raised by the learned counsel for the petitioner is that the accused in question is in custody for almost 2 years and the trial has not proceeded expeditiously with only four out of twelve witnesses being examined. On this sole ground, the learned counsel has submitted that the accused may be enlarged on bail.

3. Per contra, Mrs. N.G. Shylla, learned senior GA appearing for the State respondents has submitted that this is a serious matter involving the provisions of the NDPS Act, 1985 and taking into account Section 37 of the said Act, the petitioner or rather the accused in question has not been able to

convince this Court as to whether the embargo present in Section 37 has been overcome, that is, whether there is any proof that the accused person in question is not guilty of the alleged offence.

4. This Court, on consideration of the submission made, and on perusal of the application in hand, would agree with the learned senior GA that the offence alleged are serious in nature, inasmuch as, it involves seizure of commercial quantity of contraband substance namely, heroin. This being the case, this Court is of the considered view that the petitioner or the accused in question has not been able to convince this Court that he is not guilty of the offence alleged *prima facie*. However, on the ground of delay, this Court would also note that cases before the Trial Court are proceeding in their normal course, and it would not be proper for this Court to direct the Trial Court to single out any particular case for speedy disposal.

5. Be that as it may, it is also incumbent upon the Trial Court to take up the cases and proceed with the trial expeditiously under the circumstances. It is therefore the request of this Court that the Trial Court takes up the matter expeditiously.

6. Accordingly, in view of the observations made hereinabove, this Court is of the opinion that this application is devoid of merit, the same is

dismissed and stands disposed of. No costs.

Judge

Meghalaya
13.05.2024
"D. Nary, PS"