



Serial No. 13
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 23 of 2024

Date of Decision: 10.06.2024

Shri. Demi Ch. Marak,
S/o (L) Jewithson G. Sangma
Resident of Melagre,
West Garo Hills District, Meghalaya

.....Petitioner

–Versus–

State of Meghalaya
Represented by the Public Prosecutor

.....Respondent

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Dey, Adv. with
Mr. S. Deb, Adv.

For the Respondent(s) : Mr. K. Khan, P.P with
Mr. J.N. Rynjah, GA
Mr. S. Sengupta, Addl. Sr. 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. S. Dey, learned counsel for the petitioner who has submitted that this Court vide order dated 27.05.2024 had granted interim bail to the accused person, Shri. Silnang Ch. Marak who was arrested in connection with Ampati P.S. Case No. 27(03) of 2024 under Section 435/506/307/34 IPC. The reason for such allowance is that the father of the accused person in question is suffering and is in coma and has been referred to hospital where he is in the Intensive Care Unit (ICU). It is the submission of the learned counsel that the condition of the father of the accused person has not yet improved and he is still in coma but now has been shifted to Guwahati Metro Hospital, Guwahati where he was also treated in the ICU. The accused person being the only person who has attended to his father in the hospital, is required to continue such attendance till date and as such on this ground alone, the prayer for grant of bail is made.

2. Mr. K. Khan, learned P.P has not made any strong objection to the prayer made and has also referred to the progress of the investigation to state that two of the co-accused persons have given their statements before the police indicating the involvement of the accused person but to what extent and in what manner such involvement occurred has not been stated by the said accused who are said to be the eye-witnesses of the said incident. The learned P.P has also submitted that in course of Test Identification Parade the victim has identified the accused person as being present at the scene of the incident. The learned P.P has however submitted that no concrete evidence have been found in the mode and



manner of the involvement of the said accused person.

3. This Court has considered the submission made and has also perused the documents produced by the petitioner which are the records of the patient that is, the father of the accused person before the Guwahati Metro Hospital. There is no denying the fact that the father of the accused person is in ICU in the said hospital till date and for which the accused person is the only person who is attending to his needs. Though it is a well settled principle of jail jurisprudence that bail is the rule and jail is the exception. In a catena of judgment passed by the Hon'ble Supreme Court guidelines and parametres have been laid down as to the circumstances under which bail can be granted or not.

4. One of such guidelines is the fact that the Court has to look into the nature and gravity of the alleged offence, the complicity or the involvement of the accused and the evidence thereto and also the fact that the accused may abscond.

5. Though it is also settled that bail is the discretion of the court concerned, the same has to be considered after looking into all the facts and circumstances of the case and taking into account the said principle as indicated herein above.

6. The case involving the accused person is indeed serious, however investigation is still going on and it is the submission of the learned counsel for the petitioner that the accused person has, in the meantime appeared before the I/O and has got his statement recorded.

7. The Hon'ble Supreme Court in the case of Sanjay Chandra v.



Central Bureau of Investigation, (2012) 1 SCC 40, at para 21 and 22 has observed as under:-

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.”

8. On an overall consideration of the submission of the parties, this Court is of the opinion that the prayer of the petitioner can be allowed at this point of time. The interim bail granted is hereby made absolute. The accused person, Shri. Silnang Ch. Marak is directed to be released on bail on the following conditions:

- i. That he shall not abscond or tamper with the evidence or witnesses;
- ii. That he shall not leave the jurisdiction of India without prior



permission of the I/O concerned;

iii. That he shall bind himself on a personal bond of ₹ 50,000/- (Rupees fifty thousand) only with one surety of like amount to the satisfaction of the I/O concerned;

iv. That he shall cooperate with the investigation as and when required.

9. Petition disposed of. No costs.

Judge

Meghalaya

10.06.2024

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