



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 24 of 2024

Date of Decision: 05.07.2024

Shri. Kwit Sari,
 S/o (L) Ram Suna,
 Resident of Lad Mukhla Village
 West Jaintia Hills District, Meghalaya

.....Applicant

-VS-

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. Deb, Adv.

For the Respondent(s) : Ms. T. Yangi. B, AAG with
 Mr. J.N. Rynjah, GA

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



JUDGEMENT & ORDER (ORAL)

1. Heard Mr. S. Deb, learned counsel for the applicant who has submitted that the applicant is the father of Shri. Damut Bang who is one of the accused persons presently in custody, in connection with Jowai P.S. Case No. 31(3) of 2023 now being registered as Sessions Case No. 14 of 2023 after charge sheet has been filed implicating the accused person in question and another co-accused.

2. It is the submission of the learned counsel that the accused person is in custody for about a year or so and in the meantime, the trial has proceeded with the evidence of two witnesses, the complainant and the victim as PW1 and PW2 respectively. The PW2 is yet to be cross-examined by the other co-accused. The accused person in question has already examined the said PW2. In view of the fact that there are about 9 (nine) witnesses, it is the submission of the learned counsel that trial may take some time for which the cause or rather the right of the accused person in question would be violated by prolong incarceration in custody without being afforded proper opportunity to prepare his defense. On this ground, the learned counsel would submit that this Court may be pleased to enlarge the accused person on bail with any conditions that may be imposed by this Court to which the accused person will abide by the same.

3. Ms. T. Yangi. B, learned AAG appearing for the State respondent has however vehemently opposed the prayer made in this application and has submitted that records would show that there is concrete evidence to prosecute the accused person in question as far as the offence is concerned inasmuch as there are eye-witnesses who have witnessed the fact that the accused person had stabbed the victim several times leading to severe



injuries inflicted upon the said victim who had to be admitted in the hospital and was in the ICU for about a month or so.

4. The main concern of the learned AAG is that the main witnesses that is, the eye-witnesses are yet to be examined and if enlarged on bail, the accused person may threaten or intimidate such witnesses which would then jeopardize the case of the prosecution. It is under such circumstances that the learned AAG would reiterate her opposition to the grant of bail to the accused person at this juncture.

5. This Court has carefully considered the submission made by the parties and is aware of the fact that the accused person is in custody for about a year or so since he was arrested on 04.07.2023. There is no criminal antecedent as far as the accused person in question is concerned though his involvement in the case in question is yet to be proved which is a matter of trial and evidence to be recorded and appreciated by the trial court, for which, the outcome would determine the fate of the accused person.

6. At this point of time, this Court is of the considered opinion that since the formalities of investigation are completed and the case is at the stage of recording of evidence, it goes without saying that the accused person is no longer required for custodial questioning. In fact, it is a well settled principle of bail jurisprudence that bail is the rule and jail is the exception, of course under the particular facts and circumstances of a case.

7. At this stage, it would be the concern of the Court that if enlarged on bail the accused person shall not abscond and that he shall cooperate with the trial and also that he shall not intimidate the witnesses. If these conditions are adhered to by the accused person, this Court finds that there



are no reasons for the accused person to be further detained in custody. Accordingly, this application is hereby allowed and the accused person, that is Shri. Damut Bang is hereby directed to be released on bail on the following conditions:

- i. That he shall not abscond or intimidate the witnesses;
- ii. That he shall cooperate with the trial as and when called upon to do so;
- iii. That he shall bind himself on a personal bond of ₹ 20,000/- (rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned trial court; and
- iv. That he shall not leave the jurisdiction of the court without prior permission from the trial court.

8. Needless to say, violation of any of the conditions set forth herein above would allow the prosecution to take steps for cancellation of the bail granted.

9. With the above, this application is hereby disposed of. No costs.

Judge

Meghalaya
05.07.2024

TIPRILYNTI
KHARKONGOR

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