



Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

AB No. 12 of 2024

Date of Decision: 12.09.2024

Shri. Banmiki Suna@ Lik Suna
Aged about 19 years
S/o (L) Lakhon Sari,
R/o Lad Mukhla Village,
West Jaintia Hills District, Meghalaya

.....Petitioner

-VERSUS-

The State of Meghalaya
Represented by the Commissioner
Secretary, Home Department
Government of Meghalaya, Shillong

.....Respondent

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S.M. Suna, Adv.
Mr. L. Shongwan, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG with
Mr. E.R. Chyne, GA

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



1. Heard Mr. S.M. Suna, learned counsel for the petitioner who has submitted that this petition for grant of anticipatory bail is filed before this Court on a similar application filed before the Court of the learned Sessions Judge, Jowai, West Jaintia Hills District, being rejected vide order date 20.06.2024.

2. The learned counsel has also submitted that the petitioner had earlier approached the learned Sessions Judge on 16.05.2024 with a similar application but the same was rejected vide order dated 28.05.2024. Thereafter, the petitioner had filed a related application before this Court which was sought to be withdrawn with liberty to approach the Sessions Court, the same was accordingly allowed. However, on an application made before the Sessions Court, such application was rejected. Hence this petition.

3. The learned counsel went on to submit that the brief facts of the case is that on 27.04.2024 at about 4:00 am a scuffle took place between the petitioner and one Shri. Rajesh Sari at Rajasthan Dhaba located at Khliehtyrshi Village on the Jowai Bypass. As a consequence thereof, an FIR was lodged by the sister of the alleged victim on 01.05.2024 before the Officer-in-Charge, Ummulong Beat House, the same being registered as Jowai P.S. Case No. 25(05) of 2024 under Section 307 IPC.

4. The learned counsel has also submitted that in course of his application for grant of anticipatory bail before the court of the Sessions Judge, he was allowed to go on interim bail and in the intervening period he had also appeared before the Investigating



Officer on four occasions, that is, on 17.05.2024, 18.05.2024, 07.06.2024 and 17.06.2024, his statement being accordingly recorded by the I/O on 18.05.2024.

5. The dismissal of his anticipatory bail application by the learned Sessions Judge was only on the ground that the I/O had sought for custodial interrogation purportedly to retrieve the stone allegedly used for the assault upon the alleged victim and also on the observations made after viewing the video clipping depicting the incident and the medical report of the alleged victim. The learned counsel has submitted that the fact of the matter is that the petitioner has no criminal antecedent and comes from a good family. If enlarged on bail, there is no likelihood that he will abscond or refuse to cooperate with the investigation. Therefore, if the prayer made in this petition is allowed, the petitioner undertakes to abide by any conditions to be imposed by this Court.

6. Per contra, Mr. N.D. Chullai, learned AAG while opposing the prayer made by the petitioner has submitted that the case is very serious in nature to the extent that the victim at the relevant point of time had to be admitted in the ICU ward of the Nazareth Hospital, Shillong with a case of severe head injury.

7. The learned AAG has also submitted that the progress of investigation as is reflected in the case diary duly produced before the Court today has established the fact that the petitioner is the perpetrator of the assault upon the victim (Shri. Rajesh Sari) which is evident from the footage retrieved from the CCTV coverage on the date and time of



the incident. The copy of the video clipping has also been produced before this Court today through a USB device.

8. The learned AAG has led this Court to the statement of the witnesses recorded by the I/O which is reflected in the CD, more importantly the statement of that of the victim who has clearly identified the perpetrator of the assault upon him being the petitioner herein.

9. Since the learned Sessions Judge has also opined that on the basis of the said CCTV footage and the medical report which has confirmed the seriousness of the injuries suffered by the victim, the petitioner being the cause of such assault, at this point of time it may not be proper for this Court to allow this petition. The same may be dismissed as devoid of merits, submits the learned AAG.

10. This Court has carefully considered the submission of the parties and has also perused the CD and has viewed the contents of the USB wherein it is seen the visual recording of what actually transpired on the date of the alleged incident at the PO, that is, on 27.04.2024.

11. From the said visual recording though the scene of two young persons being involved in a scuffle is seen, there is no indication that any kind of weapon or instrument was used during such scuffle. The petitioner having admitted to being involved in the said scuffle, the statement or visual evidence will have to be tested in course of trial.

12. The fact that the victim has also been hospitalised with serious head injury is evident from the medical report and from the statement of the witnesses who were present at the time of said incident. It is to



be noted however that none of the eye-witnesses have stated that they saw the petitioner hitting the victim with a stone. What is further observed is that another version of the incident was recounted to say that during the scuffle between the petitioner and the victim, the victim attempted to cross the road to go to the other side but at that point of time he was hit by an oncoming Bolero Pick-up Truck resulting in the injuries caused to him. It is also the statement of the witnesses that it was the driver of the said truck who had taken the victim to the Nazareth Hospital for treatment. Again, any evidence in this regard will have to be tested during trial.

13. In view of the different versions present, as to how the victim was actually injured, as far as the prayer of the petitioner is concerned, this Court at this point of time is inclined to allow the same considering the fact that the circumstances surrounding the whole incident would give the impression that the petitioner had assaulted the victim under the influence of liquor and prima facie there seems to be no pre-meditated intention to assume that it is a case of an attempt to murder.

14. In any case, since a case has been registered with the petitioner as the accused person, therefore it cannot be said that there is no apprehension of arrest on the part of the petitioner.

15. Accordingly, the prayer made in this petition is allowed.

16. The petitioner is directed to be enlarged on bail, in the event of his arrest, if he is not wanted in any other case on the following conditions:-



- i. That he shall not abscond or tamper with the evidence and witnesses;
 - ii. That he shall appear before the Investigating Officer as and when required;
 - iii. That he shall not leave the jurisdiction of India without prior permission of the I/O or the court concerned; and
 - iv. That he shall furnish a personal bond of ₹ 50,000/- (rupees fifty thousand) only with one solvent surety of like amount to the satisfaction of the I/O or the court concerned.
17. The interim bail granted is hereby made absolute.
18. The case diary as well as the USB device to be returned back.
19. Petition disposed of. No costs.

Judge