



Serial No. 21
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

AB. No. No. 16 of 2024

Date of Decision: 24.09.2024

Shri. Gopal Krishan Gour,
S/o (L) Motilal Gour,
R/o 7/144, Vidhyadhar Nagar,
Jaipur, Rajasthan - 302039

::: Petitioner

-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. Dey, Adv.
Ms. N. Rajee, Adv.

For the Respondent(s) : Ms. S. Ain, 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. Dey, learned counsel for the petitioner, who has



submitted that in compliance with this Court's order dated 16.09.2024, the petitioner has presented himself before the Investigating Officer (I/O) whereupon, he was made to execute a bail bond. The I/O has also acknowledged his appearance and has indicated as such in his note dated 17.09.2024, wherein he has stated that the petitioner has appeared before him on 17.09.2024 at 5:30 pm.

2. It is the further submission of the learned counsel for the petitioner that the facts of the case is that the complainant has filed the FIR dated 07.03.2024 alleging, inter alia, that the petitioner had misappropriated the money which is due to her and also has failed to pay rates and taxes as required in respect of the Bonded Warehouse which was run by the complainant and as such, has committed an offence under the relevant provision of law. The said FIR was accordingly registered as Araimile P.S. Case No. 25 (05) 2024 under Section 406/417/420/465 IPC.

3. The learned counsel also submits that the relationship between the petitioner and the complainant is with regard to a Bonded Warehouse known as M/s Gloria Bonded Warehouse, wherein vide General Power of Attorney and also an agreement between the parties, he was allowed to take charge and run the said Bonded Warehouse and to give an account to



the complainant, who is the owner of the same. However, in the month of September, 2021, the arrangement, agreement and relationship between the two was severed, inasmuch as, the petitioner with the knowledge of the owner of the said Bonded Warehouse has agreed that he would hand over charge of the said Bonded Warehouse to her and in the process, all dues, payments, etc. that ought to have been paid by him has been complied with. In fact, the petitioner has also executed another agreement dated 01.11.2023 to say in effect that since he is no longer in a position to run the business after the expiry of the said agreement, he had handed over the business to the complainant, and he has also cleared all the dues and liabilities towards the business which was also acknowledged by the complainant. However, to his surprise, the said FIR dated 07.03.2024 was filed by the complainant/owner of the Bonded Warehouse, alleging that he has misappropriated and transferred a huge sum of money from the Bonded Warehouse account to his own account and that he has also failed to pay Government dues amounting to crores of rupees.

4. The learned counsel has further submitted that the allegations made are false, inasmuch as, the documents would indicate that in the month of August, 2021, the relevant statement annexed as Annexure-12 in this application, would show the position of the stock of the said



Bonded Warehouse including the opening stock at the beginning of the month and the closing stock total of which would come to 83338 liquor bottles.

5. It is also the submission of the learned counsel that the petitioner apprehending arrest in view of such allegations, has therefore come before this Court with a prayer for grant of anticipatory bail, and at this point of time for the interim bail granted to be made absolute with any conditions to be imposed by this Court even to the extent of payment of any legal dues, if he is found liable to do so as far as the affairs of the said Bonded Warehouse is concerned.

6. Per contra, Ms. S. Ain, learned GA appearing for the State respondent has opposed the prayer made on the ground that investigation is going on and the I/O is yet to confront the petitioner as far as the papers and documents are concerned to verify his assertion, vis-à-vis, his plea of innocence in this matter. Under such circumstances, the learned GA has submitted that this application may be dismissed.

7. This Court has given due consideration to the submission made, the facts as stated above may not be repeated, suffice it to say that on the basis of the said FIR filed, a case was duly registered as mentioned



hereinabove and investigation is on.

8. This Court, on consideration of the submission made by the parties, is made to understand that the grievance of the complainant is that the petitioner herein has misappropriated the amount due and payable in the name of said Bonded Warehouse and that the petitioner has also failed to pay the necessary taxes or dues to the Government. It would be a matter of investigation to prove such allegations. However, as far as the cause of apprehension is concerned, this Court would agree with the learned counsel for the petitioner that there is apprehension on the part of the petitioner that he may be arrested at any point of time in connection with the said case.

9. It is well settled that in cases involving consideration of bail, the court would look into the nature and gravity of the offence alleged as well as the antecedent of the applicant/accused, however, if the attendance of the accused person can be secured, then the courts more often than not, are inclined to allow the accused person/applicant to be enlarged on bail as that would serve the purpose of compliance with the principle of liberty as enshrined under Article 21 of the Constitution of India.



10. In this regard, it may not be out of place to refer to the case of ***Sanjay Chandra v. CBI reported in (2012) 1 SCC 40*** at para 21 and 22, wherein the Hon'ble Supreme Court has observed that: -

“21. In bail application, 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 un-convicted 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.”

11. In view of the above observations, without going into the merits of the case, at this point of time, considering the fact that the petitioner has also appeared before the I/O, the prayer for grant of



anticipatory bail is hereby allowed. The interim bail is made absolute and in the event of his arrest, the petitioner is to comply with the following conditions:

- i) That he shall not abscond or tamper with the evidence or witnesses;
- ii) That he shall made himself available to the I/O as and when required;
- iii) That he shall bind himself on a personal bond of ₹ 50,000/- (Rupees fifty thousand) with two sureties of like amount to the satisfaction of the I/O or the court concerned;
- iv) That he shall not leave the jurisdiction of India without prior permission of the court concerned; and
- v) If the petitioner is a Passport Holder, he shall deposit the Passport with the I/O and to be retrieved only with due permission of the I/O.

12. With the above noted directions, this application is accordingly disposed of. No costs.



Judge