



Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA 34 of 2024

Date of Decision: 12.09.2024

Shri. Ram Singh
S/o (L) Nanak Singh
R/o Village Hour, Tehsil Khour,
P.O. & P.S. Khour,
District Jammu, J&K.

.....Petitioner

versus

1. The State of Meghalaya
Through the Superintendent of Police
Ri-Bhoi District, Meghalaya
2. The Officer In-Charge
Umiam Police Station
Ri-Bhoi District, Meghalaya

.....Respondent

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. B.K. Biswa, Adv.

For the Respondent(s) : Mr. J. Thabah, 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. An FIR was lodged before the Officer-in-Charge, Umiam Police Station by Havildar Ajay Singh Jastoria who has complained that about 2155 hrs. on 26.04.2024 when he was performing his duties as Officiating Company Havildar Major of 'D' Company and while disseminating unit routine orders to all the personnel of 'D' Company a quarrel broke out between the complainant and Lance Naik Shiv Singh. Soon after sepoy Ajay Singh joined in the quarrel and between 0015 hrs. and 0045 hrs. on 27.04.2024 a scuffle broke out amongst them. Sepoy Ajay Singh slapped him and he fell to the ground. Thereafter Ajay Singh hit him with some sharp-edged device on his left shoulder twice. Lance Naik Shiv Singh also kicked him while he was on the ground rendering him unconscious. When he regained consciousness, he realised that he was in the unit medical inspection room being rendered first aid and soon after he was taken to 420 field hospital for treatment but was referred to Military Hospital, Shillong for further treatment.

2. On receipt of the said FIR, a case being Umiam P.S. Case No. 30(05) of 2024 under Section 326/506/34 IPC was registered and the said Ajay Singh as well as Shiv Singh were arrested in connection thereto.

3. The accused Ajay Singh being in custody in connection with the abovementioned Umiam P.S. case, an application for grant of bail has been preferred by the father of the said accused person which is under consideration herein.



4. Heard Mr. B.K. Biswa, learned counsel for the petitioner who has submitted that though the scuffle between the complainant and the petitioner took place on the said date however, the accused person in question having been in custody for more than 90 days, the charge sheet not having been filed at the relevant point of time, an application for grant of bail was filed before the learned Chief Judicial Magistrate at Nongpoh on 12.08.2024. However, on learning that the learned CJM is on sanctioned leave the petitioner is therefore before this Court with this instant application.

5. The learned counsel has further submitted that there was no ill intention on the part of the accused person in question, the incident happened accidentally and as such, it is prayed that the prayer for grant of bail may be allowed with any conditions to be imposed by this Court to which the accused person undertakes to abide by.

6. Another ground raised by the learned counsel for the petitioner is on parity inasmuch as the co-accused, that is Shiv Singh having been released on bail, therefore this benefit may also be extended to the accused person in question.

7. Mr. J. Thabah, learned GA while opposing the prayer for grant of bail has submitted that a perusal of the case diary, which has been produced before this Court today would show that the conduct of the accused person in question exhibits an intent to cause harm to the complainant which is manifested in the fact that in the midst of the quarrelling he had taken advantage of the darkness and has tried to slash the complainant's neck with a machete but fortunately, due to the timely response of the complainant he could only hit the shoulder. This



being the case, the allegation being serious in nature, at this point of time it may not be proper for the accused person to be enlarged on bail, further submits the learned GA.

8. This Court has considered the submission made and also perused the case diary. It is noted that in the statement of the accused person Ajay Singh he has admitted that the scuffle took place on the said date of the incident but his version is that it was the complainant who had started the argument which resulted in the scuffle and he was also the first one who had physically assaulted Shiv Singh.

9. What is also further noticed is that the investigation into the matter has been completed and the charge sheet has been filed on 15.07.2024 under the relevant provision of law with the I/O coming to a finding that there exists a strong prima facie case against the accused person in question and the co-accused and they are to be put up for trial before the competent court.

10. In view of the fact that the investigation is completed, it may not be necessary to further interrogate the accused person in question and that in the trial he is to be given an opportunity to defend himself. At this stage under the facts and circumstances of the case, this Court is of the opinion that the accused person may be allowed to go on bail with conditions to be imposed.

11. It is well settled that in a criminal proceeding if the attendance of the accused person could be ensured then it may not be proper to keep a person in custody unnecessarily. This proposition has been highlighted in a number of judgments rendered by the Hon'ble Supreme Court as well as various High Courts. One such authority in



this regard is the case of Sanjay Chandra v. Central Bureau of Investigation, reported in (2012) 1 SCC 40 at para 21 and 22 wherein the Hon'ble Supreme Court has observed as follows:

“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 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.”

12. Accordingly, the prayer made in this petition is hereby allowed.
13. The petitioner is directed to be released on bail, 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 ₹ 30,000/- (rupees thirty thousand) only with one solvent surety of like amount to the satisfaction of the I/O or the court concerned.

14. Petition disposed of. No costs.

Judge