



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 63 of 2024

Date of Decision: 26.09.2024

Shri. Ibrahim Khan @ Ebrahim Khan
 S/o Abdul Haspid
 R/o Budh Nagar, Loni, Loni Dehat,
 Ghaziabad, Uttar Pradesh,
 201102, House No. B-133, Gali No. 5.

Presently lodged at District Prison and
 Correctional Home, Jowai

::: Petitioner

-Vs-

1. State of Meghalaya,
 Represented by Secretary,
 Home (Political) Department,
 Government of Meghalaya, Shillong.

2. The Officer-in-Charge,
 Amlarem Police Station, Amlarem,
 West Jaintia Hills District.

::: Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. J. Shylla, Adv.
 Mr. M.L. Nongpiur, Adv.

For the Respondent(s) : Mr. S. Sengupta, Addl. PP.

i) Whether approved for reporting in Yes/No



Law journals etc.:

ii) Whether approved for publication
in press:

Yes/No

ORDER (ORAL)

1. Heard Mr. J. Shylla, learned counsel for the petitioner, who has submitted that an FIR was lodged before the Officer-in-Charge, Dawki Police Station on 16.06.2024, the informant who is a police officer alleging that when he was deputed for night Naka checking duty, he received reliable information that some Bangladeshi Nationals are likely to enter Indian Territory through the Unfence International Border. In the process, two public service vehicles were intercepted, on being search, a number of suspected foreign nationals, including four ladies and five minor children were found to be occupants of the said vehicles. Accordingly, a case was registered as Dawki P.S. No. 11 (6) 2024 under Section 14A/14C of the Foreigners Act and investigation was launched.

2. It is also further submitted that the progress of investigation had taken quite some time and the charge sheet has not yet been filed within the stipulated period of time, and as such, the petitioner had moved for grant of default bail on 16.08.2024, which prayer was allowed by the learned Sessions Judge, West Jaintia Hills District vide order dated



19.08.2024.

3. The learned counsel has also submitted that while granting bail to the petitioner herein, certain conditions were imposed, inter alia, for execution of personal bond of ₹ 20,000/- (Rupees twenty thousand) with two sureties of like amount. However, the petitioner being a poor person, has found it difficult to provide the said sureties as directed as a result of which inspite of being granted bail, he is still languishing in custody till date.

4. Under such circumstances, the learned counsel has submitted that this instant petition is preferred before this Court with a prayer for modification of the said bail condition to the extent that the petitioner may be directed to be released on bail upon execution of a personal bond without surety or alternatively to deposit cash bond as deemed fit and proper by this Court.

5. The learned counsel in support of his contention has submitted that the Hon'ble Supreme Court in the case of ***Moti Ram and Ors v. State of Madhya Pradesh reported in (1978) 4 SCC 47*** has laid down the principle that bail conditions should not be onerous resulting in a virtual denial of bail, when circumstances and relevant situation surrounding the



petitioner ought to have been considered, vis-à-vis, his capacity to comply with such condition. Para 23, 24 and 25 of the said judgment was referred to by the learned counsel in this regard.

6. To strengthen his plea for an expeditious consideration of his prayer in this petition, the learned counsel has also submitted that during the pendency of this petition before this Court, while the petitioner was under custody, his mother had sadly passed away on 24.09.2024 which demands his presence with the family members under such circumstances. It is therefore prayed that this petition may be allowed and the prayer made for modification of the said bail application be granted to allow the petitioner to be released on bail.

7. Mr. S. Sengupta, learned Addl. PP appearing on behalf of the State respondent has not strongly opposed the prayer made by the petitioner herein, but has only insisted that some time may be allowed for the Investigating Officer to file a status report as far as the progress of investigation is concerned, involving the petitioner herein.

8. This Court, has considered the case of the petitioner, and would accept the statement made on affidavit that he has no resources to enable him to secure sufficient sureties as directed by the learned court



which has passed the initial bail order. Apart from the authority cited by the learned counsel for the petitioner i.e. the case of Moti Ram (supra), the learned counsel for the petitioner has also referred to a recent order passed by the Hon'ble Supreme Court in the case of ***Ramchandra Thangappan Aachari v. The State of Maharashtra in Special Leave to Appeal (Crl.) No(s). 3363/2024***, wherein vide order dated 18.09.2024 in the context of bail, the court while considering the case of the petitioner therein who was unable to furnish local surety inspite of having been granted bail, the following observation was made at para 6 which is cited herein below:

“6. It would be a travesty of justice if the petitioner is unable to secure the benefit of bail order for his inability to furnish local surety. This will infringe the rights guaranteed under Article 21 of the Constitution for the person, who continues to be detained despite a bail order in his favour.”

9. At para 7 of the said Ramchandra Thangappan Aachari case, the Hon'ble Supreme Court has decided as follows:

“7. Having considered the circumstances here, we deem it appropriate to say that the petitioner be released on bail on his personal bond without insisting on local surety, to ensure compliance with this Court's bail order dated 03.05.2024. It is ordered accordingly.”

10. Under similar circumstances, this Court would also concede to



the prayer made by the petitioner and hereby modifies the order dated 19.08.2024 passed by the learned Sessions Judge (supra) in Bail Application Nos. 26, 27 & 29 of 2024, the relevant portion which reads as “...are granted default bail on execution of a PR Bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of like amount...”, only with respect to the case of the petitioner herein, shall now read as follows “is granted default bail on execution of a personal bond of ₹ 2000/- (Rupees two thousand)”. The other conditions being kept intact.

11. In view of the above, the petitioner is directed to be released on bail on compliance with the fresh bail conditions aforementioned.

12. Petition disposed of. No costs.

Judge

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