



Serial No.09
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

M.C (W.P.Crl.) No. 1 of 2024 in
W.P.Crl. No. 3 of 2022

Date of Order: 21.10.2024

NO. 113990825 CT/(GD)
Shri. Bhand Kanaahiya Ramhari
58th Batallion Border Security Force
S/o Kanaahiya Ramhari.

.... Petitioner.

Vs.

1.The Union of India, Represented by the Secretary, Ministry of Home Affairs, Government of India, New Delhi.

2.The Director General, Border Security Force, (F.H.Q), 10- Central Office Complex, Lodhi Road, New Delhi -03.

3.The Additional Director General (EC) HQ SPL DG(EC) BSF, Kolkata.

4.The Commandant, 55th Batallion, Border Security Force, Bobasipara, Tura West Garo Hills District, Meghalaya.

5.The Deputy Inspector General, BSF, FTR, HQ, BSF, West Garo Hills District, Meghalaya.

....Respondents.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

**Appearance:**

For the Petitioner/Appellant(s) : Mr. K. Ch. Gautam, Adv.

For the Respondent(s) : Dr. N. Mozika, DSGI with
Ms. K. Gurung, Adv.

ORAL:-

Heard Mr. K. Ch. Gautam, learned Counsel appearing for the petitioner also Dr. N. Mozika, learned DSGI assisted by Ms. K. Gurung, learned Counsel appearing for the respondents.

By this application, the petitioner has made a prayer for his release on bail for a temporary period to enable him to visit his ailing father at Kusum Nagar, Bhoom District Osmanabad, Maharashtra – 413504. The learned Counsel for the petitioner has drawn attention of this Court to the medical certificate dated 14-10-2024, wherein it has been specifically mentioned that the petitioner's father is suffering from severe parkinsonism (Severe Hypolkineria, dementia) and the near and dear one of the ailing father of the petitioner should be around him at this stage as it may be terminal event. The learned Counsel, without referring to the merits of the case, submits that due to the urgent situation the petitioner may be allowed to visit his ailing father and in support of his case, has placed reliance on the decision of the Apex Court reported in *(2021) 5 SCC 311, Kerala Union of Working Journalists Vs. Union of India and Others* to contend that, in the present situation, it is permissible for this High Court to order release of the petitioner for a short duration of time on bail. The learned Counsel has further placed reliance on a decision passed by this High Court in *MC (W.P.Crl) No. 1 of 2022 in MC (W.P.Crl) No. 2 of 2022, No. G/5007784K*



Rifleman (GD) Anil Kumar Vs. Union of India & 4 Ors. and submitted that as per the said decision, the Registrar General of this Court is competent to accept the bail bond for any such release on bail.

Dr. N. Mozika, learned DSGI, on the other hand, while opposing the prayer of the petitioner has submitted that there is an alternative remedy available to the petitioner for seeking relief in the present situation. The learned DSGI referred to Sections 78, 128 and 130 of the B.S.F. Act and contended that the petitioner should approach the Director General, B.S.F. requesting for his temporary release. It is the submission of the learned DSGI that since there is an alternative remedy available, the petitioner could not have approached this Court by filing this instant application. He submits that the application be rejected and the petitioner be directed to approach the Director General, B.S.F. for the relief which has been prayed for in this application.

Having heard the learned Counsels appearing for the parties and on perusal of the materials on record, it appears from the medical report dated 14-10-2024 and the averments made in the application that the father of the petitioner is seriously ill and it is, indeed, an emergent situation. Though, a submission has been made on behalf of the respondents that there is an alternative remedy available to the petitioner, it appears that approaching the Director General, B.S.F, at this stage, by filing an application and seeking disposal of the same would take considerable period of time. On query being made by this Court, the learned DSGI submitted that it may take 7-10 days for the Director General to dispose of the application in case the petitioner prefers an application for his temporary release.

In view of the above situation, without going into the merits of the contention raised on behalf of the parties, it is deemed appropriate at this stage to allow the release of the petitioner, who is presently lodged at Tura



Jail consequent to his conviction and sentenced by the General Border Security Court, temporarily for a period of 10 (ten) days on bail on the following conditions: -

i) The petitioner shall furnish a personal bond of Rs. 10,000/- (ten thousand rupees) with a surety of like amount to the satisfaction of the Registrar General of this High Court.

ii) The petitioner shall not abscond or leave the jurisdiction of the country.

iii) The petitioner shall give prior information of his travel plan either to the Deputy Inspector General, B.S.F, Tura or the Inspector General, Frontier Headquarter, B.S.F, Shillong.

iv) The petitioner, on his return, shall report to the authority to whom he submitted his travel plan.

v) The petitioner shall ensure his return to Tura Jail within 10 (ten) days failing which this order shall stand automatically cancelled. The connected Criminal Writ Petition would be taken up for hearing only after the petitioner's return to the Tura Jail.

The period of 10 (ten) days shall be computed from the day on which the petitioner is released on bail from the Tura Jail.

The application stands allowed.

Judge

Meghalaya
21.10.2024
"Biswarup PS"