



Serial No.03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CrI.M.C. No. 116 of 2024 in
AB. No.19 of 2024

Date of Order: 18.11.2024

Smti. Suchona Ch Sangma
W/o Shri. Limison D Sangma
R/o Boldampitbari,
P/o Photamari
P/s Tikrikilla Tura, District
West Garo Hills Meghalaya.

Vs. 1.State of Meghalaya represented
by its Secretary Home.

2. Shri. Gopal Krishna Gour
S/o Late Motilal Gour
R/o 7/144, Vidhyadhar Nagar,
Jaipur, Rajasthan – 302039.

....Applicant

....Respondent.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Ms. P. Bhattacharjee, Adv.

For the Respondent(s) : Mr. K. Khan, PP.
Mr. S. Sengupta, Addl. PP. (R:- 1)
Mr. S. M. Suna, Adv. (R:-2)

ORAL:-

Heard Ms. P. Bhattacharjee, learned Counsel appearing for the applicant also Mr. K. Khan, learned PP assisted by Mr. S. Sengupta, learned Addl. PP for the State-respondent and Mr. S. M. Suna, learned Counsel appearing for the respondent No.2.



By this application the applicant has prayed for allowing her to intervene in the anticipatory bail application filed by the respondent No.2. The learned Counsel appearing for the applicant submits that the applicant is the complainant in the Khanapara PS Case No. 25(07) 2024 registered against the respondent No.2. The learned Counsel submits that the respondent No.2 has preferred the anticipatory bail application registered as AB/19/2024 before this Court by making some untrue and false statements in order to obtain anticipatory bail by misleading the Court. It is the submission of the learned Counsel that the participation of the applicant in the hearing of the anticipatory bail application filed by the respondent No.2 is necessary for the purpose of placing true facts of the case before this Court and hence, prays that the applicant may be allowed to intervene and be heard in opposition to the AB/19/2024.

Mr. K. Khan, learned PP submits that the State-respondent has no submission to make in this application.

Mr. S. M. Suna, learned Counsel appearing for the respondent No.2 submits that there is no provision of law which allows the complainant to intervene at this stage and the application for intervention has been filed without citing any provisions of law. He submits that since there is no law which allows the applicant to intervene at this stage for the purpose of raising objection against the application for grant of anticipatory bail, the prayer made in the present application cannot be entertained and is liable to be rejected.

Upon hearing the rival parties and on consideration of the averments and the materials available before this Court, it is found that the applicant has not been able to place before this Court any provisions of law which allows the applicant to intervene at the stage of consideration of the anticipatory bail



application. Though, during the course of hearing, the learned Counsel for the applicant has drawn attention of this Court to Section 338 (2) BNSS, 2023 in support of her submission, the said provision does not seem to apply at this stage. The provision of Section 338 (2) contemplates that a private person can instruct an advocate of his choice to prosecute any person in any Court, however, the role of such advocate is to act therein under the direction of the Public Prosecutor or Assistant Public Prosecutor and may submit written argument, with the permission of the Court, after the evidence is closed in the case. There is nothing in the aforesaid provision which confers a right on the complainant/applicant in the present matter to intervene and be afforded with an opportunity to be heard in opposition to the prayer for grant of anticipatory bail. Hence, there is no merit in the present application and the same stands rejected.

Judge

Meghalaya
18.11.2024
“Biswarup PS”