

Serial No. 23
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 65 of 2023

Date of Decision: 29.01.2024

Smti. Britila Nongspung

Vs.

State of Meghalaya & 2 Ors.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. R. Kharsyad, Adv.
Mr. S.J. Diengdoh, Adv.

For the Respondent(s) : Mr. S. Sengupta, Addl. P.P with
Mr. H. Kharmih, Addl. P.P
Mr. H. Abraham, GA (For R 1 & 2)

JUDGMENT (ORAL)

1. Heard Mr. R. Kharsyad, learned counsel appearing for the petitioner. Mr. S. Sengupta, learned Addl. P.P, appears for respondents No. 1 and 2 respectively. However, the survivor who was arrayed as respondent No. 3 for which she had received notice has failed to make any representation before this Court.

2. According to the learned counsel for the petitioner, the husband of the petitioner herein, Shri. Esan Warjri was arrested on 23.05.2023 in connection with Madanriting P.S. Case No. 50(05) 2023 under Sections 376/506 IPC. In course of investigation, the Investigating Officer has filed the charge sheet indicating his findings that there is a well-founded prima facie case against the

accused person for which he is to stand trial before the competent court of jurisdiction.

3. Accordingly, the Court of Session, East Khasi Hills District has taken cognizance of the matter and Session Case No. 27(T)/2023 was registered, with the husband of the petitioner as the accused therein. In due course, charges were framed against the accused person under Sections 376/506 IPC. The case before the trial court is at the stage of recording of evidence of the prosecution witness. Till date, only one witness has been examined as PW1 that is, the survivor. However, after a number of dates being fixed for the case, the prosecution has failed to examine any further witnesses. This, according to the learned counsel, has prejudiced the cause of the accused person vis-à-vis his incarceration in custody.

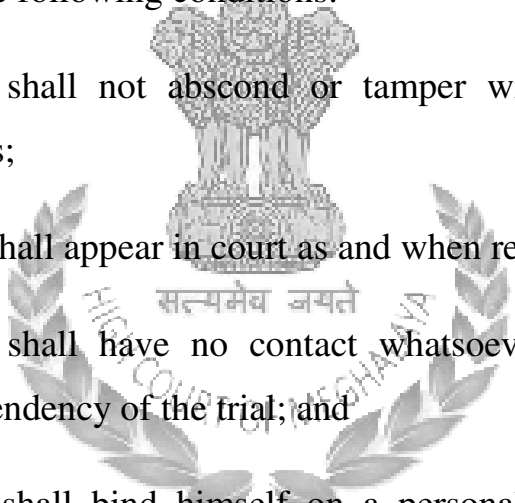
4. It is also further submitted that since investigation has been completed and even the main witness that is, the survivor has deposed before the court, the remaining witnesses are mostly official witnesses, as such, it is prayed that at this stage, bail may be granted to the accused person with any conditions fit to be imposed by this Court.

5. Mr. S. Sengupta, learned Addl. P.P while opposing this petition, has submitted that the survivor is apprehensive of the accused person being released on bail on the ground that she may be threatened, if the said accused person is released on bail. It is, therefore, prayed that this petition may not be allowed at this stage.

6. This Court having heard the parties and on consideration of the facts and circumstances of the case as far as the issue of bail is concerned, would agree with the learned counsel for the petitioner that at this juncture it may not be proper to further keep the accused person in custody since all the

formalities connected with the investigation and proceedings of the investigation of the case is complete and the trial is proceeding in the normal course. It is also reiterated that the purpose of bail more often than not, if after considering the nature and gravity of the alleged offence and other factors, the main concern is that the accused person if enlarged on bail shall not abscond.

7. This Court has also noted the apprehension as has been raised by the survivor and is of the view that appropriate conditions may be imposed, if the accused is to be released on bail. Accordingly, the prayer of the petitioner is allowed. The accused person, Shri. Esan Warjri is hereby directed to be released on bail on the following conditions:

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- i. That he shall not abscond or tamper with the evidence and witnesses;
 - ii. That he shall appear in court as and when required;
 - iii. That he shall have no contact whatsoever with the survivor during pendency of the trial; and
 - iv. That he shall bind himself on a personal bond of ₹ 50,000/- (rupees fifty thousand) only with one solvent surety of like amount to the satisfaction of the trial court.

8. In view of the above, this petition is hereby disposed of. No costs.

Judge

Meghalaya
29.01.2024
"Tiprilynti-PS"