



Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 15 of 2025

Date of Decision: 17.03.2025

Shri. Warish Uddin Laskar,
Son of Abdulla Mia Laskar
Aged about 53 years
R/o Nandirgram, PO Kabuganag,
Cachar District,
Assam-788121

.....**Petitioner**

- Vs-

1. State of Meghalaya
Represented by
The Superintendent of Police,
East Jaintia Hills District,
Khliehriat, Meghalaya.
2. The Officer-in-Charge,
Khliehriat Police Station,
East Jaintia Hills District,
Khliehriat, Meghalaya.

.....**Respondents**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. R. War, Adv.

For the Respondent(s) : Mr. R. Gurung, GA.



Mr. K.P. Bhattacharjee, GA.
Mr. S.A. Sheikh, GA.

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT AND ORDER (ORAL)

1. Heard Mr. R. War, learned counsel for the petitioner, who has submitted that on 24.06.2024 at about 11:30 AM, the vehicle bearing registration No. AS 01 EJ 8977 occupied by three persons, was intercepted by the police at a place called Nongrim Hills on the NH-06. On the said vehicle and the occupants being subjected to search, certain amount of alleged contraband substance was seized from the person of one of the occupants of the said vehicle. Accordingly, an FIR being lodged on 24.06.2024 by SI ASR Lakiang before the Officer-in-Charge, Khliehriat Police Station, East Jaintia Hills District, the police have arrested all the three occupants, and investigation was launched.

2. The learned counsel also submits that, in course of investigation, it was discovered that the seized contraband item was identified as Heroin amounting to 164.99 gms. The Investigating Officer, after completion of investigation, has filed his charge sheet with the opinion that a prima facie case under Section 21(b)/29 NDPS are found well-established against the



arrested accused persons namely, Smti. Mamta Sinha, Shri. Rofikul Alom Laskar and Shri. Sahin Hussain Laskar. Another person namely, Smti. Maya Gwala, who is said to be part of the racket was also arrested in connection with the case.

3. It is also the submission of the learned counsel that the matter came up for framing of charge before the learned Trial Court, wherein charges were framed under Section 21(b)/29 NDPS Act, and an additional section of 27(A) was also framed against the alleged main accused, Shri. Rofikul Alom Laskar. The learned counsel submits that this instant application under Section 483 BNSS has been filed by the petitioner for grant of bail on behalf of the accused, Shri. Sahin Hussain Laskar.

4. The argument and contention raised by the learned counsel in support of his pleadings in this petition, is that the accused person in question has been arrested in connection with the aforementioned case, and is in custody for about nine months or so till date. The charge sheet having been filed and the charges also framed against the said accused, therefore, there is no requirement for any custodial interrogation or questioning. Another limb of argument raised by the learned counsel is that, since the charges have been framed and the trial is proceeding, therefore, there is no possibility of the accused tampering with the evidence or witnesses as far as this case is



concerned.

5. The learned counsel further submits that the fact that the alleged contraband substance seized was of intermediate quantity in accordance with the provision of Section 21(b) of the NDPS Act, therefore, the rigors of the provision of Section 37 is not applicable. As such, the general principle of bail may be applied to the case of the accused person in question, to say that bail is the rule and jail is the exception. In support of his case, the learned counsel has cited a number of decisions passed by this Court as well as by other High Courts, wherein in the case of Smti. Lily Sitlhou v. State of Meghalaya passed in BA. No. 55 of 2023, in its order dated 16.11.2023, this Court at para 10 has observed as follows:

“10. This Court taking into consideration these aspects of the matter, that is, the fact that the accused person was not arrested while in possession of the said contraband drugs and also that she has no previous record as far as her involvement in criminal cases including drug related cases are concerned, and since the quantity seized is of an intermediate quantity, the rigors of Section 37 of the NDPS Act not being applicable and finally, since the charge sheet has already been filed and the case is taken up for trial before the competent court, at this point of time, it will not be relevant to further detain the accused person in custody”.

6. Again, on the aspect of the case being prolonged or delayed, the learned counsel has submitted that, out of eight cited witnesses, only one witness have been examined so far i.e. on 15.03.2025. As such, the conclusion



of the trial may take some time, which would thus enable the petitioner to seek for grant of bail on this score. The learned counsel has further referred to the case of Smti. Lakyntiewrisha Nongrum & Ors v. State of Meghalaya & Anr passed in BA. Nos. 2 to 5 of 2024 dated 16.02.2024 at para 15, wherein this Court has relied upon the principle cited by the Hon'ble Supreme Court at para 21 of the case of Sanjay Chandara v. CBI reported in (2012) 1 SCC 40, to say that bail is generally granted, if the appearance of the accused person could be secured at his trial by reasonable amount of bail.

7. There is also the reference to the prayer of the Investigating Officer for filing of supplementary charge sheet on the ground that the FSL report could not yet be filed before the court, the learned counsel has submitted that on this ground too, bail has been granted to the accused person therein by relevant order of the Hon'ble Supreme Court as well as many High Courts in the country. However, since, it is also the admission of the learned counsel that this issue is under consideration before the Hon'ble Supreme Court, and as such, bail on this ground is not pressed for.

8. The learned counsel has submitted that the accused person in question is a young man of 29 years old, who is about to get married, his marriage having already been arranged and fixed, therefore, it is prayed that this petition may be allowed and bail may be granted to the accused person



with any strict conditions as deemed fit and proper to be imposed by this Court.

9. Per contra, Mr. R. Gurung, learned GA appearing for the State respondent, has strongly opposed the prayer made on the ground that the facts and circumstances of the case, would show that that the accused person in question is very much involved in the whole operation, and is also aware of the reason he had proceeded along with the other two accused persons in the said vehicle. He is also aware that the contraband substance (Heroin) was in the possession of one of the co-accused persons, who was a co-passenger with him in the said vehicle, and in fact, in his statement under Section 161 Cr.P.C., he has agreed to proceed to Shillong in the said vehicle along with the said co-accused, and also, had also given the name of the other co-accused person, to whom the said consignment was to be delivered at Shillong. The accused person in question, has further admitted that he was involved in such similar operation for about two or three times before he was arrested.

10. Taking into account such admission, and the fact that the society at large is wary of the prevalence of drug related incidences and cases which has destroyed the very fabric of society, particularly the lives of many who have been lured and addicted to such contraband substances, this Court, taking into consideration such a situation, may not allow the prayer of the



petitioner as far as this instant case is concerned.

11. The learned GA has also cited the case of Shri. Khupliansum v. State of Meghalaya, wherein this Court vide order dated 31.07.2023 passed in BA. No. 22 of 2023 at para 18, 19 and 20 has observed as follows:

“18. In the case of Indresh Kumar (supra), the Hon’ble Supreme Court has cited the case of Dataram Singh v. State of U.P & Ors: (2018) 3 SCC 22, more particularly para 2 of the same which reads as follows:

“2. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.”

19. Taking a cue from this, this Court is reminded of a remark which runs as follows:

“The scourge of drugs yields disastrous consequences on the health of young people, the well-being of the family, the spread of crime and the destruction of economies by financial flows of obscure origins”

20. The above remark is aptly true in the society that we are now living where the menace of drugs is threatening to destroy lives and society. Indeed, young people are most vulnerable to this threat and many a time, have been seen to fall prey to the same. It is incumbent upon the society as well as courts to combat this menace in whatever possible way and although, due procedure of law has to be followed, in drug related cases, the Investigating Agencies and Courts has to be given wide latitude in napping or bringing any possible accused to book”.



12. It is therefore prayed that this petition being devoid of merit, the same is liable to be dismissed.

13. This Court has given considerable thought to the argument of the learned counsel for the respective parties, the facts as stated above need not be repeated. What is to be considered is whether a case has been made out for grant of bail as far as the accused person in question is concerned.

14. Granted the case is at the stage of trial with only one witness out of eight cited witnesses being examined, however, as far as the reliance on delay in the proceeding is concerned, this Court is of the view that there has not been any delay as far as the proceeding is concerned, since by the own admission of the petitioner herein, the learned Trial Court has brought on record the evidence of one witness as recent as 15.03.2025, though, the cross-examination of such witness is yet to be completed. Be that as it may, there is no reason for this Court to believe that the trial has been unnecessarily delayed.

15. Given the antecedent of the accused person in question, the petitioner cannot resort to the principle laid down in the case of Sanjay Chandra (supra), since in the opinion of this Court, considering his own admission of being involved in such trade on a regular basis, therefore, if



granted bail, he may prove to be a flight risk. Therefore, the submission of the learned counsel for the petitioner in this regard, would not help his case. As to the fact that he is incarcerated in custody for a period of nine months or so, this by itself, would not constitute any prolonged delay of any length of time under the circumstances. Accordingly, the authorities cited in this regard, are not found applicable as far as this case is concerned.

16. In view of the findings and observations made hereinabove, this Court is convinced that this petition deserves no consideration, the same is hereby rejected. Before parting, this Court, would request the learned Trial Court to proceed with the trial expeditiously to the extent possible.

17. Petition disposed of.

Judge