Item No. 30-32

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

AB No.15 of 2019

Sukham Bidyakumar Singh, aged about 27 years, s/o Sukham Angouyaima Singh of Ngairangbam Awang Mamang Leikai, P.O Langjing, P.S. Patsoi, Imphal West District, Manipur, Pin-795113.

…. *Petitioner*

- Versus –

The State of Manipur, represented by the Principal Secretary (Home), New Secretariat Building (North Block), P.O. & P.S Imphal, Imphal West, District Manipur- 795001 & Anr.

.... *Respondents*

With
AB No.14 of 2019

Sukham Angouyaima Singh, aged about 50 years, s/o Sukham Sukham Ibochou Singh of Ngairangbam Awang Mamang Leikai, P.O Langjing, P.S. Patsoi, Imphal West District, Manipur, Pin-795113.

…. *Petitioner*

- Versus –

The State of Manipur, represented by the Principal Secretary (Home), New Secretariat Building (North Block), P.O. & P.S Imphal, Imphal West, District Manipur- 795001 & Anr.

.... *Respondents*

With
AB No.24 of 2019

Sukham Kabikumar Singh, aged about 25 years, s/o Sukham Sukham Angouyaima Singh of Ngairangbam Awang Mamang Leikai, P.O Langjing, P.S. Patsoi, Imphal West District, Manipur, Pin-795113.

…. *Petitioner*

- Versus –

1. The State of Manipur, represented by the Principal Secretary (Home), New Secretariat Building (North Block), P.O. & P.S Imphal, Imphal West, District Manipur- 795001.
2. The Officer-in-charge, Lamphel Police Station, P.O. & P.S. Lamphel, Imphal West District, Manipur, Pin-795004.

.... *Respondents*

BEFORE
HON'BLE MR. JUSTICE MV MURALIDARAN

For the petitioners :: Mr. N.Ibotombi, Sr. Adv.
For the respondents :: Mr. Y. Ashang, PP.

22.1.2020

[1] A/1, Mr. Sukham Kabikumar Singh who is the petitioner in AB No. 24 of 2018; A/2, Mr.Sukham Angouyaima Singh who is the petitioner in AB No.14 of 2019 and A/3, Mr.Sukham Bidyakumar Singh who is the petitioner in AB No.15 of 2019 are approached this Court seeking pre-arrest bail in respect of the FIR Case No. 127(7) 2018 Lamphel P.S for the offence U/s 302/34 IPC.

[2] The case of the petitioners are that it was alleged in the FIR that they murdered one S. Gopal Singh on 30.05.2018. The petitioner in AB No.14 and AB No.15 are the brother and father of the petitioner in AB No.24 of 2019.

[3] It is the case of the petitioners that they were falsely implicated in this case though the said deceased Mr. S. Gopal Singh who died due to over dose of drugs as he was addicted to drugs since the last 7-8 years. It is the further case of the petitioner that the locality of the people in and around of the deceased where he was living has known about the drug addiction of the deceased Mr. S. Gopal Singh.

[4] The further case of the petitioners are that as deceased S. Gopal Singh expired because of the over dose of drug but if the family members of the deceased S. Gopal Singh has been done the Post-mortem definitely they would have known the real reason for the death of the deceased S. Gopal Singh but the family of the deceased without doing any post-mortem over the dead body though the deceased was given treatment at the RIMS hospital at IMphal, were cremated the body.

[5] The wife of the deceased by namely Sukham Sangita Devi has filed a complaint case being Cril.(C) No….. of 2018 being treated as OE of FIR Case No. 127(7) 2018 Lamphel P.S for the

offence U/s 302/34 IPC before the Court of learned CJM, Imphal West, Manipur seeking prayer as follows:-

> *(a) to take cognizance of the present Complaint u/s 200 of the Cr.P.C;*
> *(b) to allow police investigation and inquiry to help the Hon'ble Court.*
> *(c) to make the declaration of payment of Rs. 8,00,000/- as declared by the accused person be fulfilled;*
> *(d) to award punishment after the said police investigation & inquiry;*
> *(e) to pass any appropriate order.*

[6] In the complaint she alleged that all these accused particularly the accused in AB No. 24 of 2018 has murdered the deceased Gopal Singh and the other two accused in AB No.14 & 15 were helped the A1 for commitment of the offence.

[7] The complainant also stated in his complaint that the accused No.1 & 2 in this case were approached the complainant and on negotiation, the accused No. 1 & 2 agreed to give a sum of 8 lakhs to the deceased and also give landed property to the complainant and requested the complainant not to take any further action.

[8] The complainant further states that due to destroyal of all the evidences by these accused they were approached the complainant to pay the certain amount. Therefore, she prayed before

the learned Chief Judicial Magistrate, Imphal West, to take action against these accused by issuing suitable direction to register a case and deal according to the law.

[9] On filing the above complaint before the learned Chief Judicial Magistrate, Imphal West on 06.07.2018, the learned Chief Judicial Magistrate Imphal West taking cognizance under Section 200 Cr.P.C. against these petitioners for commission of offence under section 302, 201, 202, 212, 491, 504 and 34 IPC and issue direction under Section 156(3) Cr.P.C and the same was forwarded along with complaint petition to the police station for registering FIR, investigation and file a report. On receipt of the same, an FIR was registered under Section 127(7) 2018 Lamphel P.S u/S 302/34 IPC and the respondent police searching this petitioners/accused for arrest.

[10] Because of the above registration of the case based on the private complaint and the direction issued by the learned Chief Judicial Magistrate, Imphal West, Manipur the petitioners are approached this Court and filed this three(3) anticipatory bail petitions seeking pre-arrest bail in the above FIR case No. 127(7) 2018 LPS.

[11] On receipt of the notice of all these three(3) petitions, the respondent police have filed affidavit-in-opposition in AB No. 24 of 2019 and the affidavit-in-opposition is adopted in AB No. 14 & AB No.15 of 2019.

[12] In the objection affidavit, the respondent police stated that based on the direction under Section 156(3) Cr.P.C issued by the learned Chief Judicial Magistrate, Imphal West an FIR was registered in FIR case No. 127(7) 2018 LPS u/s 302/34 IPC and the IO was taken an investigation.

[13] The gist of the complaint stated by the respondent police in the objection affidavit that on 29-05-2018 at about 3.15 p.m. while the complainant was attending household chores, the petitioner in AB No. 24 of 2019 came to her house by an unregistered Bullet Motor Cycle and angrily called the name of her son, Sukham Gopal and asked to come out as they need to settle an important issue. At the relevant point of time only the complainant and her son Gopal were present in the house. When the complainant asked the Accused No. 1 why he looks so angry and tried to appease, the Accused No. 1 mockingly replied that her son's day is numbered as her son is the stumbling block to his (accused) love affairs with a beautiful girl and for which they need to settle. Thereafter, the accused No. 1 forced her son (deceased) to dress-up and taken away by his Motor cycle. Later on, the deceased was not returned. Therefore, the husband of the complainant informed to one of his neighbour namely, Shri S. Ibohal Singh and requested for help to find out her son. Accordingly, the said S. Ibohal Singh went around by his Activa Honda in search of the

whereabout of the deceased person. In doing so, he was informed by one Shri Atom Shankar of Patsoi that he saw the deceased and the Accused No. 1 arguing hotly at Mela Exhibition place and when he (Atom Shankar) told them to stop their argument, they left the place and went towards Tabungkhok side. The said S. Ibohal rushed toward the said place by taking Inter Village Road (IVR) and found the deceased was lying with difficult breathing. The deceased told the said S. Ibohal with great difficult that he was pulled and kicked hard by the Accused No. 1 for not agreeing to give up his (deceased) love affairs with the girl the Accused No. 1 claimed to be lover. After saying these, the deceased fell unconscious. The respondent police also stated that thereafter, the deceased was evacuated to RIMS Hospital. But, he was declared brought death by the doctor. Dead body of the deceased was brought home without conducting Post Mortem examination and his last rites were performed on 30-05-2018. The affidavit-in-objection further stated that the complainant alleged that P.M. Examination was not conducted due to threat made by the accused persons to the complainant's husband while she (complainant) was under sleep inducement medication. It is also further stated that the case of complainant that, the Accused Nos. 2 and 3 i.e. the natural father and proper brother of the Accused No.1, had approached to the complainant and offer to Pay Rs. 8,00,000/-(Rupees eight lakhs) only

for causing dead to her son by Accused No. 1 and for not making any complainant Report to any authority.

[14] The affidavit-in-opposition further stated that during the course of investigation that the mortal remain of the deceased was cremated as per religious rites at the common funeral pyre of Sagoltongba village on 30.05.2018 without conducting Post Mortem examination. As per the statements of the complainant, post Mortem was not conducted due to threat of dire consequences given to her by the Accused persons. When the Investigating Agency queried as to how her husband was threatened by the accused persons? She replied that at that relevant point of time she was under sleep inducement medication and as such, she did not witnessed personally but it was learned from her husband later on. When the same query was put to the complaint's husband, the only explanation given by him was that he (Complainant's husband) was unconscious in the RIMS Hospital and was under long treatment. Under such circumstances, at least at this stage, the Investigating Agency cannot rule out that PM examination was not conducted on the basis of the mutual agreement reached between the parties which was further fortified by discovery of "Declaration" dated 01.06.2018 made by the present 3(three) accused persons in present of 2(two) witnesses before the Oath Commissioner (judl.) Imphal West on Non-Judicial Stamp paper thereby promising to

pay Rs. 8,00,000/- only to the complainant in connection with the death of her son. Further, it is also discovered that on 14th July, 2018, on Shri Sukham Tomba Singh, S/o (L) S. Manglem Singh, a relative of the complainant executed a "Money Receipt" of Rs. 5,00,000/- only from accused No.2 (Father of the Accused No.1) with the condition that the remaining amount will be paid later on.

[15] It is also revealed during the course of examination to Shri Sukham Ibohal Singh, stating inter alia that while he was searching the wereabout of the deceased through IVR of Sadokpam as per information provided by one Shri Atom Sankar Singh, he saw someone pulling person at a distance of 100 metres near a paddy field. He also saw the accused No.1 running away on his Royal Enfield Bike from the scene of crime. Thereafter, after identifying the deceased, he informed the father of the deceased through mobile phone. Thereafter, the deceased was brought to RIMS Hospital but the doctors declared him brought dead. He further stated that on 30.05.2018 while the mortal remain of the deceased was at RIMS Hospital, the Accused No.2 & 3 came there and suggested not to conduct PM examination and also not to lodge FIR against the Accused No.1 by assuring to pay a sum of Rs.8,00,000/- and a plot of paddy field as compensation. Accordingly, the dead body was brought

home without Post Mortem examination. Therefore, there is prima facie materials against the Accused No.1 in the present Case.

[16] Narrating the above all facts, the respondent police strongly opposing granting an anticipatory bail since in the present case the custodial interrogation of the accused is highly required. Therefore, the respondent police prayed this Court to dismiss all the three(3) anticipatory bail petitions.

[17] Today I heard Mr. N.Ibotombi, learned senior counsel for the petitioners and Mr. Y. Ashang, learned PP and perused all the records including the FIR and affidavit-in-opposition filed by the respondents.

[18] Admittedly, when the matter was taken on 14.06.2019, this Court granted an interim anticipatory bail to the petitioner in AB No.15 of 2019, in AB No. 14 of 2019 and in AB No.24 of 2019 and the said interim anticipatory bail was periodically extended.

[19] It is the prosecution case that the A/1 in this case was alleged to murder the deceased S. Gopal Singh on 29.05.2018.

[20] After knowing about the deceased was conscious and with bodily injuries he was taken to the RIMS hospital for treatment where the Doctor declared that the person who was brought to the hospital was died but even then there was no request made by the

deceased family or the authority of the RIMS hospital were not informed to the police about the deceased who was brought for taking treatment with blood injury.

[21] If the occurrence would have taken place on 29.05.2018 and the injured body was taken to the RIMS hospital for treatment, it is the bounden duty of the family members of the complainant and RIMS hospital authority to report the matter to the police station and Post Mortem should be done whether the deceased family accept or not accept but without doing so, the dead body was taken home and buried on 30.05.2018.

[22] Even at this stage also no complaint was given by the complainant family to the respondent police directly but later on after one month i.e. on 28.06.2018 only this private complainant has been lodged before the learned CJM, Imphal West, Manipur and based on that, a direction was issued by the CJM, Imphal West, for investigation and to file a report. This complaint was registered against the petitioner. All these were well known by the deceased family but they have not come forward to bring to the notice about the death of the deceased S. Gopal Singh to the respondent Police.

[23] Apart from this when the petitioners were approached this Court in the month of June, 2019 itself, this Court granted interim anticipatory bail. It is reported by the respondent police that all these

petitioners reported to the respondent police continuously. Therefore once interim anticipatory bail was granted to the petitioners, nothing will be prejudiced to the respondent police if the anticipatory bail is made absolute.

[24] Admittedly, the FIR was registered only based on the direction issued by the learned CJM, Imphal West, Manipur and this court should not curtailed for further investigation but the respondent police may go on for further investigation with this complaint in a proper way and file a report before the court concerned. Once interim anticipatory was granted in the month of June, 2019 and the same was periodically extended I am inclined to consider the case of the petitioners for granting anticipatory bail to the petitioners by making the anticipatory bail absolute.

[25] In the above circumstances, I am inclined to pass the following orders:-

(a) All the three anticipatory bail petitions are allowed.

(b) all the petitioners should execute two sureties like sum of Rs. 25,000(twenty five thousand) each to the satisfaction of the learned Sessions Judge, Imphal West, Manipur.

(c) the petitioners in AB No.15 & AB No.14 of 2019 are directed to appear before the respondent police daily at 10:00 am and cooperate for the investigation.

(d) the petitioner in AB No.24 of 2019 is directed to appear before the respondent police for two(2) weeks after returning back from Army by taking leave. It is made clear that the petitioner should take leave within a period of two(2) months from the date of receipt of this order and directed to appear before the respondent police daily at 10:00 am.

(c) if any of the conditions is violated by the petitioners, the respondents police is at liberty to approach this Court for cancellation of bail.

JUDGE

John Kom

WAIKHOM TONEN MEITEI Digitally signed by WAIKHOM TONEN MEITEI Date: 2020.02.07 12:58:17 +05'30'