Serial No. 04 to 06
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 22 of 2020 with
BA. No. 23 of 2020
BA. No. 24 of 2020

Date of Decision: 01.12.2020

Smti Shibli Sharma	Vs.	State of Meghalaya.
Shri. Bidhan Ghosh	Vs.	State of Meghalaya.
Smti Geeta Das	Vs.	State of Meghalaya.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

In BA No. 22 & 24 of 2020

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

For the Respondent(s) : Mr. B. Bhattarcharjee, AAG. with
Ms. I. Lyngwa, GA.

Appearance:

In BA No. 23 of 2020

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

For the Respondent(s) : Mr. N.D. Chullai, AAG. with
Ms. I. Lyngwa, GA.

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

ii) Whether approved for publication in press: Yes/No

1. These matters have been taken up via video conferencing.

2. Shella P.S Case No. 9 (02) 2020 under Sections 148/506/302/34 IPC

read with Section 3 of the PDPP Act, was registered in response to an FIR lodged on 28.02.2020 by the President and Secretary KSU, South Khasi Hills Unit relating to an incident which occurred on 28.02.2020 at Ichamati under Shella Police Station when, after a meeting organized by the Khasi Student Union (KSU), at about 4.30 P.M or so, a group of people armed with sticks, machete, iron rods etc. suddenly came and attacked the members of the KSU as a result of which many of them were injured and one person eventually succumbed to his injuries.

3. After investigation was launched, the Investigating Officer submitted a Charge Sheet dated 24.05.2020 before the Court of the Judicial Magistrate First Class at Sohra in the East Khasi Hills District.

4. It may be mentioned that in course of investigation, several persons were arrested and eventually, on being charge sheeted, the I/O has found evidence to book certain persons under some sections of law and some under another set of sections mostly under the Indian Penal Code.

5. The accused person Babla Acharjee represented by Smti Shibli Sharma, the Petitioner in BA No. 22 of 2020 was arrested on 19.03.2020 and charged sheeted under Sections 148/506 IPC.

6. The accused person Birendro Debnath represented by Shri Bidhan Ghosh, the Petitioner in BA No. 23 of 2020 was arrested on 16.03.2020 and charged sheeted under Sections 148/506 IPC.

7. Again, the accused person Ponil Das represented by Smti Geeta Das, the Petitioner in BA No. 24 of 2020 was arrested on 19.03.2020 and charged sheeted under Sections 148/506/427 IPC.

8. As stated above, these three applications being similar applications for grant of bail under Section 439 Cr.P.C., inasmuch as, they relate to the same incident which occurred on 28.02.2020 at Ichamati, Shella and as such, it is deemed expedient to pass a common order in this regard.

9. Mr. K.Ch. Gautam, learned counsel for the Petitioners, has submitted that this Court vide Order dated 31.08.2020 in BA No.7 of 2020 and again vide Order dated 25.09.2020 in BA No. 11 & 12 of 2020 and also vide Order dated 05.10.2020 in BA No. 17 of 2020 has granted bail to the accused persons therein, having been charged with offences under Sections 148/506/427 IPC. Babla Acharjee and Birendro Debnath who are similarly charged under Sections 148/427 IPC and accused person Ponil Das who was charged under Sections 148/506/427 IPC are also entitled to grant on bail on application of the principle of parity.

10. The learned counsel has therefore made a prayer for grant of bail to the three accused persons named above and has also undertaken to abide by any conditions as deemed fit and proper to be imposed by this Court.

11. Mr. B. Bhattacharjee and Mr. N.D. Chullai, learned AAG assisted by Ms. I. Lyngwa, GA has also submitted that not much resistant can be offered by the State Respondent in these case for grant of bail, taking into account the fact that this Court has already allowed some of the co-accused in the said Shella P.S Case No. 9(02) 2020 who are charged under the sections of law enumerated above to go on bail and as such, strong objection to these application has not been pressed strenuously.

12. On consideration of the submission made before this Court, what can be understood is that, the Petitioners have approached this Court seeking grant of bail on behalf of the accused persons on application of the doctrine of parity, inasmuch as, some of the co-accused connected with the same case have already been enlarged on bail by this Court.

13. It may be mentioned that this Court while passing the Order dated 31.08.2020 in BA. No. 7 of 2020, after an overall consideration of the case in hand, has mainly allowed the application for grant of bail taking into account the severity of the ultimate punishment if conviction follows the trial.

14. As observed by this Court in similarly situated cases, what is seen is that the Investigating Officer has examined a large number of witnesses and has also recorded the statement of the arrested accused persons under Section 161 Cr.P.C. Almost all the witnesses have confirmed that the riot had taken place at Ichamati. Some of these witnesses are eyewitnesses who has seen a large mob armed with sticks and dangerous weapons advancing towards the place where the meeting of the KSU had taken place and thereafter, there was a scuffle between the two groups. Again, the witnesses have also identified some of the rioters which includes the names of those accused persons named in the said BA. No. 7 of 2020 and also the accused person for whom this bail application has been preferred. However, none of the witnesses have pinpointed the exact role of each individual rioter.

15. Again, it would be appropriate to refer to the principle of parity to understand that it implies that the requirement to consider the "appropriate comparability" of co-accused, and in that sense, comprehends the mirror propositions that like should be treated alike, and that disparate culpability or circumstances may mandate a different disposition.

16. This being the case, the case of the Petitioners herein has to be considered on the ground of parity.

17. In view of the above, this Court is of the considered opinion that the accused persons above named are entitled to bail, which is hereby granted under the following conditions:

i) That the accused persons above named shall not abscond or tamper with the evidence and witnesses;

ii) That they shall diligently appear in Court as and when required;

iii) That they shall not leave the jurisdiction of India without prior permission from the Court concerned.

18. The accused persons are also directed to execute a personal bond of ₹50,000/- (Rupees fifty thousand) only with one surety of like amount to

the satisfaction of the Trial Court.

19. The learned Trial Court is hereby directed to issue notice of release of the accused persons above named on being satisfied with the bail bonds etc., produced before it.

20. The case diary, charge sheet and relevant documents produced by the State respondent are to be sent back to the Court concerned.

21. Registry is directed to send copy of this order to the Trial Court concerned for compliance.

22. With the above, these applications are hereby disposed of as allowed. No cost.

Judge

Meghalaya
01.12.2020
"D. Nary, PS"