



No. of Order	or Order	Order with Signature	Office Note as to action (if any) taken on Order
4.	18.6.2003	<p>Present: Mr. N. Rai assisted by Mr. Rajendra Upreti, Advocates for the petitioner.</p> <p>Mr. N.B. Khatiwada, Public Prosecutor assisted by Mr. J.B. Pradhan, Addl. Public Prosecutor for the State.</p> <p>Heard learned counsel for the petitioner and Mr. N.B. Khatiwada, learned Public Prosecutor assisted by Mr. J.B. Pradhan, learned Addl. Public Prosecutor for the State-respondent. The order dated 5-12-2002 passed by the learned Sessions Judge(South &amp; West), Namchi in CrI Misc. Case No.26/2002 is the subject matter under challenge in this revision petition. Questioning the validity of the impugned order dated 5-12-2002, Mr. N. Rai, learned counsel contended that the conditions imposed by the learned Court below in granting the bail in other words the requirement of furnishing of personal bond and surety bonds of Rs.40,000,00/- (Rupees fourty lakhs) with two solvent sureties for an amount of Rs.20,000.00/- (Rupees twenty lakhs) each and other three conditions <sup>are</sup> highlighted in the impugned order is disproportionate and, not tenable in the eye of law. Supporting the case of the accused Shri Budhiman Subba, the learned counsel had relied upon the two decisions of the Apex Court rendered in the State of Rajasthan vs. Balchand reported in AIR 1977 Supreme Court 2447 and in the case of Sandeep Jain vs. National Capital Territory of Delhi, 2000 Supreme Court Cases(CrI) 316 and submitted that the</p>	

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conditions imposing dis-proportionate amount of personal and surety bonds were set aside by the Apex Court.

At the hearing, Mr. N.B. Khatiwada, learned Public Prosecutor submitted that the accused person/petitioner has committed a heinous crime wherein he had misappropriate an amount of Rupees two crores and thirty lakhs (Public Money) while he was functioning as Branch Manager of State Bank of Sikkim, Sombaria Branch and there is likelihood of tracing out ~~of~~ some more evidence for other illegal acts, which shall support the case of the prosecution and as such the conditions imposed by the learned Court below pertaining to the bond amount is proportionate. I have perused the impugned order dated 5-12-2002. Upon hearing, the learned counsel for the parties and after proper application of my mind in this matter particularly the charges levelled against the accused, I am of the view that a little modification of the conditions imposed by the learned Court below upon the accused person while granting the bail is called for to secure the ends of justice and accordingly, I made the following orders and directions:-

- (i) It is ordered that the accused Shri Budhiman Subba shall be released on bail on furnishing his personal bond of Rs.40,000,00/- (Rupees forty lakhs) only with two sureties <sup>of the like</sup> ~~for an~~ amount of Rs.10,000,00/- (Rupees ten lakhs) only each to the

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satisfaction of the learned Sessions Judge(South & West), Namchi, South Sikkim. It is made clear that the accused/petitioner shall not directly or indirectly make inducement to any person or persons acquainted with the facts of the case so as to dissuade them from disclosing such material facts of the case either to the Police/investigating machinery or to the Court.

- (ii) *That, the accused/petitioner shall not*  
~~Not to~~ leave the State of Sikkim without the permission of the Court of the Sessions Judge(South & West), Namchi and he shall make himself available for interrogation before the Investigating Officer/<sup>or</sup> O.C. of the Police Station *forward* daily for at least one hour till the completion of the investigation and he shall give full cooperation with investigating machinery.

For the reasons, observations and discussions made above, the impugned order dated 5-12-2002 is modified to the extent dictated above and accordingly the present petition is disposed of. Let a copy of this order be sent to the learned Sessions Judge(South & West), Namchi by the Registry of this Court as early as possible.

*N. Surjmani Singh*

(N. Surjmani Singh)  
Acting Chief Justice

18-6-2003.

*filed recd. on 19.6.03.*  
*19/6/03*

*Copy of order forwarded to S. Judge on 20.6.03.*  
*20/6/03*