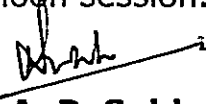





Serial No. of Order	Date of Order	Orders with signature	Office Note as to action (if any) taken on order
02.	16.12.2008	<p>Present: Mr. Ajay Rathi, Advocate for the Petitioner.</p> <p>Mr. Karma Thinlay, Additional Public Prosecutor for the State.</p> <p>---</p> <p>Heard arguments in part.</p> <p>List it again in the afternoon session.</p> <p> (Justice A. P. Subba) Acting Chief Justice</p>	
03.	16.12.2008 2 p.m.	<p>Present: Mr. Ajay Rathi, Advocate for the Petitioner.</p> <p>Mr. Karma Thinlay, Additional Public Prosecutor for the State.</p> <p>---</p> <p>Heard the learned counsel appearing for both the parties.</p> <p>This is an application filed by the petitioner under Section 440(2) read with Section 439(1)(b) of the Code of Criminal Procedure, 1973 for deduction of the bail amount. The petitioner was arrested on 12th June, 2008 in connection with Sadar P.S. Case No.80(6)08 under Section 468/471/34 of the Indian Penal Code. It is stated that the bail application moved by the petitioner after his arrest was allowed since no charge-sheet was filed within the period of 2 months. As per the bail order, the accused was to be released on his furnishing bail amount of Rs.25 lakhs with a reliable surety. Since the accused failed to furnish any surety, he is still in custody.</p> <p>It is submitted by the learned counsel for the petitioner that the amount of Rs.25</p>	



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		<p>lakhs fixed as bail amount is too excessive and the same amounts to denial of bail itself. It is on account of the bail amount being excessive that the accused was unable to furnish the required surety and avail of the bail order. Drawing the attention of this Court to the Order dated 7th October, 2005 passed by this Court in Criminal Revision Petition No.14 of 2005, the learned counsel submitted that the circumstances of the present case being identical a similar order reducing the bail amount was called for. The learned Additional Public Prosecutor opposed the application mainly on the ground that the case against the accused is serious one and it would be more appropriate for him to approach the learned trial Court for review or for reconsideration of the amount of bail if he was aggrieved by the bail amount fixed by the Court.</p> <p>The provision as contained in Section 440(2) of the Code of Criminal Procedure, 1973 makes it amply clear that every bond executed under Chapter XXXIII relating to bail and bail bonds shall be fixed with due regard to the circumstances of the case and the same shall not be excessive. Thus, keeping in view such clear provision of law and also the fact that such a reduction of bail amount as prayed for in the present case has once been granted by this Court in a similar matter, I am of the view that a reasonable reduction in the amount of bail is called for in the present case in the</p>	



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		<p>interest of justice.</p> <p>Accordingly, the bail amount as fixed by the impugned order passed by the learned Chief Judicial Magistrate, East & North at Gangtok on 16th September, 2008 is reduced to Rs.15 lakhs.</p> <p>The learned counsel for the petitioner undertakes on his own not to leave the State on being released on bail and to report to the I.O. of the case every day. Since such a condition is acceptable to the petitioner on his own it is hereby directed that the petitioner shall report to I.O. as and when required in connection with the ongoing investigation.</p> <p>Needless to say the accused shall not tamper with the prosecution evidence and shall cooperate with the investigation.</p> <p>The accused shall be released on his furnishing personal bond and surety bond of the amount indicated above to the satisfaction to the learned Chief Judicial Magistrate, East & North at Gangtok.</p> <p>Accordingly, this application stands disposed of.</p> <p>Send a copy of this order to the concerned Court for information and compliance.</p> <p> (Justice A. P. Subba) Acting Chief Justice 16-12-2008</p>	<p>A Copy of order forwarded to CJM (E+N) on 18-12-08 hears 18/12/08</p>