

AB 2905/2014

BEFORE

HON'BLE MR. JUSTICE P.K. SAIKIA

Heard Mr. D Das, learned senior counsel for the petitioner. Also heard Mr. H. Sarma, learned Addl. Public Prosecutor, appearing for the State-respondent.

This is an application u/s 438 CrPC filed by the petitioner, namely, Chandan Das who apprehends arrest in connection with Bilasipara P.S. Case No. 821 of 2014 corresponding to GR Case No. (BLP) 321 of 2012 under Sections 420/406/34 IPC read with Section 4/5/6 of the Prize Chits and Money Circulation (Banning) Act, 1978.

CD was called for and the same is produced before the Court today. I have gone through the CD being aided by the learned Addl. P.P.

Learned senior counsel appearing for the petitioner contends that the petitioner herein was arrested in connection with CID PS Case No. 81 of 2012. Thereafter, he was arrested in as many as 14 cases of similar nature. After being in custody in those cases over a very long period of time from 15.5.2013 to 8.11.2013, he was released in all the cases. It has been submitted that in some of those cases, particularly in CID PS Case No. 81 of 2012,

Geetanagar PS Case No. 12 of 2013, Dispur PS Case No. 2410 of 2012, Lumding PS Case No. 242 of 2012, Lumding PS Case No. 239 of 2012 and Dispur PS Case No. 2410 of 2012 and in all cases registered in the State of Meghalaya, trial have already commenced and those cases cover a lot of ground by now.

It has also been stated that the present case was initiated in 2012 with allegations which are quite similar to the allegations made in the cases, aforementioned. Though the accused-petitioner was behind the bar in the cases referred to above from 15.5.2013 to 8.11.2013 although charges in those cases and the present cases are very similar, he was not shown arrested in the present case. In that connection, it has been pointed out that the Hon'ble Supreme Court has held again and again that when a person is arrested and detained in custody, he needs to be shown arrested in all other cases, pending against him during such time. If same was not done, the prosecuting agency cannot arrest him in cases which were pending against him when he was detained in custody in connection with other cases.

In this connection, my attention has been drawn to the decision of the Uday Chand & Ors. Vs Sheikh Mohd. Abdullah Chief Minister J. & K & Ors. reported in (1983) 2 SCC 417. The relevant part is quoted below :-

5. Mr. Kacker stated before us that the petitioners were enlarged on bail in pursuance of the order passed by this Court on March 2, 1981 but they were subsequently arrested for some other offences alleged to have been committed by them prior to March, 1981. We are quite amazed at this statement and we should have expected that if after the order of bail passed by us the authorities of the State considered it fit to arrest any of the petitioners for any other offences, it was their bounden duty to apprise this Court before taking these persons in custody, especially when no disclosure was made to us when we passed the order of bail that any case or cases were under investigation against any of the petitioners. We regret that this elementary courtesy to this Court was not shown. We would like to reiterate that the petitioners shall be treated as free citizens in spite of the fact that they have been subsequently arrested which arrests are clearly contrary to the order of bail passed by this Court.

This Court too in the case of Dr. A. Laso Vs. State of Manipur reported in (1987) 2 GLR 292 rendered a similar view.

Since the dictum of the Apex Court in the case of Uday Chand (supra) was not carried out by the State-respondents in so far as present case is concerned, according to the learned counsel for the accused-petitioner, prosecution/police are now prevented from arresting the accused-petitioner in connection with the case, aforementioned. In that connection, I have also heard Mr. H. Sarma, learned Addl. PP.

Coming back to our case in hand, I have also found that the petitioner has been in detention from 15.5.2013 to 8.11.2013, in connection with CID PS Case No. 81 of 2012 and thirteen other cases with similar charges. In spite of that, the accused-petitioner was not shown arrested in the present case while he was in custody in connection with the case, aforementioned, though the case in hand was initiated as far back as 2012. Situation being such, in terms of law laid down in Uday Chand(supra), the police/prosecution cannot be allowed to arrest the petitioner in connection with the case in hand and as such, the petitioner needs to be given relief as sought for in this proceeding.

In view of above, it is provided that in the event of arrest of the petitioner, namely, Chandan Das in connection with the case, aforementioned, he shall be released on bail of Rs. 50,000/- (Rupees fifty thousand) with a surety of like amount to the satisfaction of the arresting authority.

The petitioner is directed to appear before the Investigating Officer once in a week for next 3 (three) months from the date of his appearance before the I.O.

Bail application stands disposed of. Return the CD.