

BA. No. 17 of 2016  
With BA. No. 18 of 2016  
BA. No. 19 of 2016  
BA. No. 20 of 2016  
BA. No. 21 of 2016  
BA. No. 22 of 2016  
BA. No. 23 of 2016  
BA. No. 24 of 2016

**BEFORE  
 THE HON'BLE MR. JUSTICE, S.R. SEN**

16.12.2016

Since the bail applications bearing BA. No. 17 of 2016, BA. No. 18 of 2016, BA. No. 19 of 2016, BA. No. 20 of 2016, BA. No. 21 of 2016, BA. No. 22 of 2016, BA. No. 23 of 2016 and BA. No. 24 of 2016 is the outcome of a single FIR which is at Annexure-3 Page 20 all the bail applications are taken up together for disposal by this common order.

In response to the order dated 15.12.2016 the Superintendent of Police, Tura, Mr. Mukesh Singh appeared in person.

Mr. K. Paul, learned counsel for the petitioners submits that on 13.10.2016 three boys went to a village called Rishipara and created nuisance in the locality. As a result, there was some altercation between the boys and the villagers wherein the police were informed and the three boys were arrested. While they were in the custody of the police, one was badly beaten and finally succumbed to his death on 15.10.2016 and the other two were released. Accordingly, an enquiry was conducted after which, the police department suspended one of its officer for his gruesome assault upon the accused. Thereafter, the petitioners/accuseds went to the police station to lodge a complaint and unfortunately, they were arrested on the basis of the FIR filed by the mother of the deceased and now they are in judicial custody almost for the last two months. Thereafter, the petitioners/accuseds were badly beaten in the Tura Jail by the inmates and subsequently, they were transferred to Shillong District Jail for their safety.

The learned counsel further argued that the accused persons are in no way involved in the case, so they may be released on bail.

On the other hand, Mr. S. Sen Gupta, learned State counsel appeared along with the I/O and submits before the Court that, detention is required as the TIP is yet to be done and besides that, the main accused is yet to be arrested. So, bail application may be dismissed.

The submission advanced by the learned counsel for the petitioner was verified from the Superintendent of Police, Tura wherein he admitted that it is a fact that preliminary enquiry was found that one of the officer assaulted one of the accused person and as a result, he was suspended by the police department concerned.

After hearing the submissions advanced by the learned counsel, I do not find any reason to reject the bail application at this juncture. I would like to make clear that, it is a settled principle of law that TIP having not been completed cannot be a ground for rejection of bail. Similarly, the main accused having not been arrested cannot be a ground for rejection of bail. Therefore, I am unable to accept the submission of the Prosecution. Hence, I feel that, since the applicants are in Jail for the last two months, their detention may not help the Investigating Authority. Accordingly, the petitioners/accuseds are allowed to go on bail for a sum of Rs. 50,000/- (Rupees fifty thousand) each with one solvent surety of the like amount who is having a permanent resident within the jurisdiction of the subordinate Court subject to the satisfaction of the trial Court concerned with following conditions:

1. The petitioners/accuseds shall be bound to appear before the I/O twice a month continuously for three months and thereafter, as and when required by the I/O.
2. The petitioners/accuseds shall not leave their permanent station without prior permission of the Chief Judicial Magistrate, Tura.
3. The petitioners/accuseds shall maintain peace and harmony in the locality.
4. The petitioners/accuseds shall cooperate with the I/O for the purpose of investigation and will not tamper with the evidence in any manner.

Violation of the above conditions by any of the petitioners/accuseds will automatically cancel the bail order.

With this observation and direction the bail application bearing BA. No. 17 of 2016, BA. No. 18 of 2016, BA. No. 19 of 2016, BA. No. 20 of 2016, BA. No. 21 of 2016, BA. No. 22 of 2016, BA. No. 23 of 2016 and BA. No. 24 of 2016 are hereby allowed and stands disposed of by this common order.

Court Master is directed to return the C.D immediately to the I/O along with a copy of this order.

**JUDGE**

*D. Nary*