

**Serial No. 02**  
**Regular List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

BA. No. 10 of 2020

Date of Decision: 25.09.2020

Shri. Mintu Debnath

Vs.

State of Meghalaya

**Coram:**

**Hon'ble Mr. Justice W. Diengdoh, Judge**

**Appearance:**

For the Petitioner/Appellant(s) : Mr. K. Ch. Gautam, Adv.  
For the Respondent(s) : Mr. B. Bhattacharjee, AAG. with  
Ms. Z.E. Nongkynrih, GA.

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

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

1. This matter has been taken up today via video conferencing.

2. The petitioner has come before this Court with an application under Section 439 Cr.P.C. seeking grant of bail on behalf of his brother-in-law Shri Nikesh Debnath who was arrested in connection with G.R. Case No. 8(6) of 2020 u/s 148/326/506/307/302/34 IPC r/w section 3 of the PDPP Act arising out of Shella P.S case No. 9(2) 2020 u/s 148/506/302/34 IPC r/w section 3 of the PDPP Act

3. A brief factual observation of the events leading to the registration of the said Shella P.S case No. 9(2) 2020 is that on 28.02.2020, an FIR was filed by the President and Secretary KSU of South Khasi Hills District Unit in connection with an incident of rioting which took place on 28.02.2020 at Ichamati under Shella P.S, East Khasi Hills District in which one person was seriously assaulted and later succumbed to his injuries.

4. During the course of investigation, a number of arrests were made and the Investigating Officer (I/O), on completion of investigation has filed the Charge Sheet on 24.05.2020 before the Court of the learned Judicial Magistrate First Class (JMFC) Sohra with a prayer to file a supplementary Charge Sheet. It has been stated that the accused Shri Nikesh Debnath along with others surrendered themselves before the police on 26.05.2020 and subsequently, the supplementary Charge Sheet was filed.

5. The accused person above named, has moved a bail application before the learned JMFC, Sohra on 06.07.2020, however vide Order dated 14.07.2020 the learned Court rejected the bail application mainly on the ground that since the situation had caused a law and order problem, releasing the accused person at that stage would trigger a law and order situation which is not in public interest.

6. The learned counsel for the petitioner, Mr. K. Ch Gautam in his argument has submitted that the accused person was arrested on 26.05.2020 on his surrender before the police and has been languishing in jail since the date of his arrest. From the Charge Sheet, it is seen that there is no concrete evidence against the accused person and even if the Charge Sheet speaks about some photographs and video, the same has not been supplied to the accused person according to the provision of Section 3 of the Indian Evidence Act.

7. The learned counsel for the petitioner has also submitted that the case has been at the stage of committal for more than two three months and by the time copies are supplied, summons have been issued to all the accused persons, and there could be some proclamations also as some of the accused have absconded, the process will take a long time and will defeat the purpose of speedy trial. In this context, keeping the accused in custody for such a long time will not serve the purpose of justice.

8. It is prayed that the accused may be released on bail with strict conditions.

9. Mr. B. Bhattacharjee, learned AAG assisted by Ms. Z.E. Nongkynrih, learned GA on behalf of the State respondent while opposing the submission of the learned counsel for the petitioner has submitted that in this case, the facts and circumstances are identical to those which are present in BA. No. 9 of 2020 which was taken up by this Court for hearing. The main charge against the accused Shri Nikesh Debnath is one under Section 302 IPC.

10. In reply to the contentions raised by the learned counsel for the petitioner as far as the accused herein being named in the supplementary Charge Sheet, the learned AAG has submitted that this would not change the seriousness of the charge and filing of Charge Sheet would not change the circumstance, rather it would strengthen the case of the prosecution. In this regard, reliance was placed in the case of ***Virupakshappa Guoda & Anr v. State of Karnataka & Anr: (2017) 5 SCC 406*** at paragraphs 12-16.

11. Another limb of argument advanced by the learned AAG is that in consideration of the larger interest of the public, under the facts and circumstances of the case would be a very relevant point for consideration of bail as was held at paragraph 16 of the ***Virupakshappa case (supra)***.

12. On the contention of the learned counsel for the petitioner that there is no evidence against the accused, the learned AAG has submitted that the fact remains that there is prima facie evidence of the involvement of the accused along with others in commission of the offence and that sufficiency and insufficiency of evidence is not to be established at this juncture, since it is only when the trial has started that the same will be examined and as such, this Court will not go into this aspect of the matter while considering the issue of bail. Prayer for grant of bail is therefore opposed accordingly.

13. Facts as stated above, the issue to be determined here is whether the accused Nikesh Debnath is entitled to be enlarged on bail at this stage of the proceedings. With reference to the incident which occurred on 28.02.2020 where a riot took place, it is common sense to understand that a large number of people were involved on both sides and in the melee, no particular person

could be pinpointed as to who was actually responsible for the consequences, that is, of destruction of public property and casualty in terms of infliction of injuries and death etc. If witnesses could clearly identify the perpetrator(s), the same would weigh heavily as to assignment of general and most particularly, specific role of such perpetrator(s). On perusal of the records, including the case dairy, it is seen that a number of witnesses have placed the accused herein at the place of incident and his role in the riot has been alleged to be substantial. This would lent credence to the allegation in the charge sheet that there appears to have been a strong prima facie case against the accused, including an offence under Section 302 IPC.

14. This being the case, as was held in a number of rulings in many judgments of the Hon'ble Supreme Court of India and of many High Court of this Country as far as bail jurisprudence is concerned, some of the main factors to be considered while granting or refusing bail is the nature and seriousness of the offence, the character of the evidence, the larger interests of the public or the State and similar other considerations.

15. To further cement this assertion, the case referred to by the learned AAG, that is, **Virupakshappa Guoda & Anr** (*supra*) at paragraph 16, the Hon'ble Supreme Court has held as under:

**“16.** In *CBI v. V. Vijay Sai Reddy*; (2013) 7 SCC 452 the Court had reiterated the principle by observing thus: (SCC p. 465, para 34)

*“34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not*

*expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”*

*( emphasis in original)*

16. In view of the above observations, this Court is of the considered view that the petitioner has not been able to make out a case for grant of bail to the accused Nikesh Debnath. This petition is hereby dismissed as devoid of merits.

17. Registry is directed to return the records including the case dairy.

18. Case disposed of. No cost.

**Judge**

Meghalaya  
25.09.2020  
“D. Nary, PS”

