

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

AB No. 53 of 2021

Oinam Rajendro Singh

.... Petitioner/s

- Versus -

Officer in Charge, Keibul Lamjao Police Station

.... Respondent/s

BEFORE

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

29.12.2021

Heard Mr. N. Mahendra, learned counsel appearing for the petitioner and Mr. Y. Ashang, learned PP appearing for the respondent.

The present application has been filed under Section 438 of the Cr.P.C for granting pre arrest bail to the petitioner in connection with FIR No. 10 (12) 2021 KBL PS u/s 326/354-B IPC. The learned counsel for the petitioner draws the attention of this Court to the bail objection report dated 20.12.2021 submitted by the I.O. of the case wherein the statement of the victim is clearly recorded. The relevant portion of the said report is as under:-

*"On further investigation, it is learnt that the victim person has been discharged from the Hospital on 15.12.2021. Accordingly, examined the victim person very minutely in which she fully corroborated with the OE lodged by her daughter. She also asserted that, on the day of incident i.e. 05/12/2021 at about 8 am she was standing near Lai Lairembi Leirak and chewing Pan Masala (Talab) and she spit that pan masala on the road side. It seems one car pass acrossed her on the road. Suddenly, that car reversed back and from that car one Oinam Rajendro came down and started shouting at her (victim) by saying **"how are you disrespect me by spitting in front of me"**. They exchanged some heated words and argued, in that he (accused) suddenly punch her twice on her face (mouth). She also stated that he also twisted her right arm and hit on her shoulder. In the meantime, victim's daughter came rushing on hearing the commotion of the incident and somehow intervened the scene. Her daughter took her in the courtyard of her house. After a*

while the accused person came back again at the victim's courtyard and he threatened and shouted "Come out all of you (whole family) I will kill you all with a stone" In that the locality elders came out and took him away. Thus how she sustained injury and admitted at hospital. Due to the impact of the assault the victim had removed one lower tooth and replaced by an artificial one. Also another lower tooth is on the verge of removing as opined by the doctor."

By referring to the statements made by the victim, it has been submitted by the learned counsel appearing for the petitioner that even accepting the report dated 05.12.2021 submitted by the daughter of the victim to the OC, Keibul Lamjao Police Station as well as the statement made by the victim, it is crystal clear that the grievous hurt suffered by the victim has been caused by the accused person when the petitioner punched the victim on her face and that such grievous injuries were not caused by any other means or instrument as laid down in section 326 of the IPC. The learned counsel further submitted that even accepting the aforesaid report as well as the statement made by the victim in its entirety, no offence is made out for committing the offence under Section 326 and Section 354-B by the petitioner. According to the counsel for the petitioner, the offence under section 325 IPC may be attracted, which is a bailable offence. In view of the above, it has been strenuously submitted by the learned counsel appearing for the petitioner that the I.O. of the case has made serious charges against the petitioner without any basis and that the petitioner is entitled to grant pre arrest bail in view of the facts and circumstances of the present case.

Mr. Y. Ashang, learned PP submitted that on perusal of the relevant provisions of the section 326 and 354-B of the IPC along with the original report and the statement made by the victim as recorded in the bail objection report,

no prima facie case seems to be made out of the petitioner committing the offences under section 326 and 354-B of the IPC. However, it has been strenuously submitted by the learned PP that all throughout the period from the date of the original report till today the petitioner has not been cooperating with the investigation at any point of time and he has been evading arrest by the police. In view of the above, it has been submitted by the learned PP that in order to facilitate the investigation of the present case, the petitioner is required to be present before the I.O. of the case everyday to assist the investigation of the case till the completion of the investigation or till the satisfaction of the I.O., whichever is earlier.

After hearing of the learned counsel appearing for the parties, this Court is of the considered view that the petitioner is entitled to grant of pre arrest bail in the facts and circumstances of the present case and accordingly, the present application is allowed with the following directions:-

- 1) In the event of arrest of the petitioner in connection with FIR No. 10 (12) 2021 KBL PS u/s 326/354-B I.P.C, the petitioner should be released on bail on his executing a bond of Rs. 50,000/- (fifty thousand) only along with a surety to the satisfaction of the arresting authority;
- 2) the petitioner should be present before the I.O. of the case everyday to facilitate the investigation of the case till the completion of such investigation or till the I.O. is satisfied that the presence of the accused is no longer required in connection with the investigation of the case;

- 3) the petitioner should not leave the State without prior permission of the arresting authority;
- 4) liberty is given to the Police to make any appropriate application for modification/recalling this order, if the petitioner violates any of the conditions imposed by this Court.

With the aforesaid directions, the present application is disposed of.

A copy of this order be furnished to both the counsel appearing for the parties through their whatsapp/e-mail.

JUDGE

Sapana