

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

AB. No. 7 of 2023

Date of Decision: 28.04.2023

Shri. Waliul Islam

Vs.

State of Meghalaya

**Coram:**

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

**Appearance:**

|                                 |   |   |
|---------------------------------|---|---|
| For the Petitioner/Appellant(s) | : | Mr. S.A. Sheikh, Adv.<br>Mr. C.H. Thomlui, Adv. |
| For the Respondent(s)           | : | Mrs. N.G. Shylla, Sr. GA.                       |

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|-----|--|--------|
| i)  | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press:           | Yes/No |

**JUDGMENT AND ORDER (ORAL)**

1. Heard Mr. S.A. Sheikh, learned counsel appearing on behalf of the petitioner as well as Mrs. N.G. Shylla, learned Sr. GA appearing on behalf of the State respondent.

2. The brief facts of the case of the petitioner is that on 18.06.2022, an FIR was lodged before the Officer-in-Charge, Phulbari Police Station by one Shri. Mofuzul Hoque, alleging that a group of seven dacoits broke into his house and tied his hands and feet with a cloth and thereafter, had

looted gold and silver ornaments from his residence and also from his shop, which includes cash amounting to ₹ 1,60,000/- (Rupees one lakh sixty thousand).

3. On receipt of the said FIR, the police have registered a case being Phulbari P.S. Case No. 48 (06) of 2022 under Section 397/395/34 IPC.

4. In course of investigation, two persons were arrested and on the statement of one of the accused, it was revealed that the vehicle said to have been used for the commission of the crime belonged to the petitioner herein. It is also stated that the said arrested accused had implicated the petitioner herein as being part of the gang in the commission of the said crime. Accordingly, the police were on the lookout for the petitioner in order to arrest him in connection with the said case. Apprehending arrest, the petitioner has approached this Court with a prayer for grant of pre-arrest bail under Section 438 Cr.P.C.

5. It may be stated that on this matter being placed before this Court, this Court vide order dated 18.04.2023 has allowed the petitioner to go on interim bail, pending production of the case diary (C.D) before this Court. Today, when the matter is finally heard and the C.D duly produced before this Court, the learned counsel for the petitioner has reiterated that the petitioner is not at all involved in the alleged crime and that though, admittedly, he is the owner of the vehicle said to have been used in the

commission of the said crime, such vehicle was in the custody of his driver and as such, not being in control of the activities of the said driver, he cannot be implicated in the said case.

6. Another argument advanced by the learned counsel for the petitioner is that the petitioner is a young person and if arrested, his reputation and future will be in jeopardy. It is further submitted that after this Court had granted interim bail, the petitioner had accordingly approached the concerned I/O and his statement was duly recorded under Section 161 Cr.P.C and as such, having cooperated with the Investigating Authority, this is a fit case for grant of pre-arrest bail.

7. Per contra, the learned Sr. GA appearing on behalf of the State respondent has strongly opposed the prayer made for grant of pre-arrest bail by submitting that from the contents of the C.D duly produced before this Court, firstly the complicity of the petitioner in the commission of the crime has been made out, when in course of investigation, the I/O had questioned the father of the petitioner, who has clearly stated that he was in the know that the petitioner was in possession of the stolen property and that the said stolen property was also seized from the house of the petitioner who was staying with his father at the relevant point of time.

8. Another contention raised by the learned Sr. GA is that the petitioner's antecedent reveals that he was also involved in a criminal

proceeding concerning possession of stolen goods and as such, in the light of this fact, it would not be just and proper for the petitioner to be enlarged on bail at this stage or for that matter for the interim bail to be made absolute.

9. This Court has given due consideration to the submissions made.

A perusal of the said FIR, would show that the allegations are indeed serious, inasmuch as, the offence of dacoity and robbery was alleged against the petitioner and the other accused, coupled with the fact that certain seizure was made, which in due course may turn out to be a part of the stolen property. Therefore, in the light of well settled principle of bail jurisprudence and also in view of authoritative decision made pronounced by the Apex Court and other High Courts in this regard, reference to one of them being the case of *Siddharam Satlingappa Mhetre v. State of Maharashtra & Ors: (2011) 1 SCC 694*, particularly para 112, wherein a set of parameters or factors have been laid down for consideration by courts dealing with matters of pre-arrest bail, such considerations which consists of the nature and gravity of the situation, the antecedent of the petitioner and the like, the same has to be looked into in the particular facts and circumstances of this case.

10. This Court, even considering the fact that the petitioner has cooperated with the I/O by his statement being duly recorded, is of the

opinion that the I/O has to be given more time and a long rope to complete his investigation so as to get to the bottom of the matter. Therefore, the custodial detention of the petitioner at this stage may be necessary.

11. In view thereof, this application is found to be devoid of merits, the same is hereby dismissed. The interim bail granted is discharged and the I/O is directed to take necessary steps in this regard.

12. In view of the fact that the learned Sr. GA has handed over the C.D at the bar, Court Master is directed to return the same immediately.

13. Accordingly, AB. No. 7 of 2023 stands disposed of. No costs.



**Judge**

Meghalaya  
28.04.2023  
"D. Nary, PS"