

Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 11 of 2023

Date of Decision: 26.04.2023

Shri. Angushman Deb & 4 Ors. Vs. State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. A. Bhattacharya, Adv.

For the Respondent(s) : Ms. N.G. Shylla, Sr. GA with
Ms. A. Thungwa, GA

- | | | |
|-----|---|--------|
| 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. A. Bhattacharya, learned counsel, who has submitted that this is an application under Section 439 Cr.P.C with a prayer for grant of bail on behalf of the accused persons, Angushman Deb, Robin Singha, Raja Singh @ Rajbir Singh, Sudip Singh and Shubra Bhowmick @ Ratul, all represented by Mr. Pradip Singh, were arrested by the police in connection

with Umiam P.S. Case No. 04 (01) of 2023 under Section 307/326/34 IPC.

2. The learned counsel has submitted that the accused persons abovenamed were arrested on different dates, that is, petitioners No. 4 and 5 were arrested on 24.03.2023 while the petitioners No. 1, 2 and 3 respectively were arrested on 30.03.2023 pursuant to action taken on the basis of the FIR lodged before the Officer-in-Charge, Umiam Police Station, Ri-Bhoi District by Mr. Abhineet Srivastava on 26.01.2023, wherein the complainant/informant has stated that on 21.01.2023 at about 7:30 pm, he along with three friends had come to Orchid Umiam Lake to attend an event called “Riders Mania 23” organized by the Royal Enfield Riders Association of Meghalaya (RERAM). After the registration process was over, the said informant went inside the camp and on reaching near the stage area they saw Mr. Jumma Khan and three other persons drinking alcohol. Suddenly, upon seeing them, Jumma Khan and the others attacked him with a big size wooden log on his head, but he defended himself by raising his right hand as a result of which the blow hit his forearm. After the incident, the informant and his friends met the organizers of the event on 22.01.2023 and they were requested to leave the camp. Thereafter, the informant went back to his home town to Silchar for medical treatment where it was revealed that his forearm has been broken.

3. The learned counsel has also submitted that an application for grant of bail on behalf of one of the accused, Jumma Khan, has also been preferred before this Court in connection with the same case and that this Court vide order dated 20.04.2023 has enlarged the said accused on bail, the facts and circumstances being the same.

4. The learned counsel has also submitted that the Investigating Officer (I/O) while forwarding the accused persons to the court of the learned Chief Judicial Magistrate on 31.03.2023 has remarked that from the statements of the accused duly recorded, what transpired was that there was an argument between the complainant and the accused persons on 21.01.2023 at the place of occurrence, but according to the version of the accused persons they did not beat or assault the alleged victim and therefore Section 307 IPC could not have been included in the case along with Section 325 IPC since the complainant has stated that he was seriously injured, but had attended a meeting called by the organizers on the next day of the alleged incident, that is, on 22.01.2023 and thereafter he had returned to Silchar. It could not be imagined as to how he managed to ride back to Silchar which is about 299 Kms from Shillong on his bike, if his forearm was fractured.

5. Again, the learned counsel has submitted that the accused persons having been detained in custody for almost three months, their statements having been recorded, therefore there is no requirement for their continued detention and they may be enlarged on bail on any conditions to be imposed by this Court. In this regard, the case of *Sanjay Chandra v. Central Bureau of Investigation: (2012) 1 SCC 40* para 21 was referred to by the learned counsel to support his submission.

6. Ms. N.G. Shylla, learned Sr. GA appearing for the State respondent has strongly opposed the prayer of the petitioner and has countered the submission made by the learned counsel for the petitioner by submitting that the fact that of the five accused persons herein, two of them were arrested on one date while three of them were arrested on a different date is only because of the fact that when the police were looking for them, they were not to be found.

7. As to the contention that Section 307 IPC may not be the appropriate section of law on the ground that the complainant has not been able to prove that he was seriously injured, given the fact that after the date of the incident, he had attended the meeting on the next date and thereafter has decided to return to Silchar, presumably by riding the same bike he came

with, the learned Sr. GA has submitted that records would show that the complainant on being grievously injured had gone back to Silchar by a taxi. That, the statements given by the accused persons separately also shows that they corroborated each other which only goes to prove that the incident had actually taken place, submits that learned Sr. GA.

8. The learned Sr. GA has also submitted that the fact that one of the accused persons was already enlarged on bail by this Court vide order dated 20.04.2023, the accused persons herein cannot claim parity as the ground on which the said accused person was released was on medical ground which is not the case of any of the accused persons herein.

9. This Court after considering the submission made by the parties, has perused the petition in hand as well as the case diary which was produced by the prosecution.

10. What is noticed is that on the basis of the FIR filed by the complainant Mr. Abhineet Srivastava, the police on investigation being launched had caused arrest of the accused persons, most of whom are still in custody. It is also noted from the case diary that most of those involved in the said incident have had their statements taken down, including the complainant and the accused persons herein. From the statements of the

accused persons herein, it is seen that they have denied having assaulted the complainant but has however, admitted that there was an argument among them at the venue of the event at Orchid Lake, Umiam, mostly connected with the fact that the goody bag, meant for the accused persons herein, given out by the organizers to all the participants was allegedly taken by the complainant. Hence the argument.

11. In view of the fact that the investigation has proceeded considerably and that the main object of bail jurisprudence is not to unnecessarily detained an accused for the sake of detention, keeping in mind the cardinal principle of right to life, upon which the concept of an accused person being held innocent until proven guilty is based, the court of law has been guided by general principles of bail while considering an application for grant of bail, the common factor to be looked into being the nature and gravity of the offence alleged, the antecedent of the accused person as to whether there is any possibility that he or she may abscond, if enlarged on bail and also the apprehension that the witnesses and evidence may be tampered if the person is granted bail.

12. However, as has been held in a number of decisions rendered by the Apex Court of our Country, the principle of bail and not jail has more

often than not been employed to allow a detainee to be able to defend his case effectively.

13. The case of Sanjay Chandra (supra) cited by the learned counsel for the petitioner would also be relevant inasmuch as para 21 of the same, reproduced herein can be relied upon by this Court to favourably consider the prayer of the petitioner.

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.”

14. In the light of the above observations, the prayer of the petitioner is hereby allowed. The accused persons named herein are accordingly directed to be enlarged on bail on the following conditions, failure to adhere to the said conditions would allow the I/O to move the competent court for cancellation of the bail granted, the conditions being that they collectively or individually:

- i. shall not abscond or tamper with the evidence and witnesses and particularly shall not threaten the complainant;
- ii. shall appear before the Investigating Officer as and when required;
- iii. shall not leave the jurisdiction of India without prior permission of the I/O or the Court concerned; and
- iv. shall furnish a personal bond of ₹ 30,000/- (Rupees thirty thousand) only each with two solvent sureties of like amount to the satisfaction of the concerned court.

15. Registry is directed to return the case diary immediately.

16. Bail application disposed of. No costs.

Judge

Meghalaya

26.04.2023

"Tiprilynti-PS"