

Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

AB. No. 10 of 2023

Date of Decision: 28.04.2023

Shri. Sumit Kumar Jain Bohra

Vs.

State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. V.K. Jindal, Sr. Adv. with
Mr. V. Kumar, Adv.
Mr. S.D. Upadhaya, Adv.
For the Respondent(s) : Mrs. T. Yangi. B, AAG. with
Ms. R. Colney, GA.
Ms. I. Lyngwa, 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. V.K. Jindal, learned Sr. counsel appearing on behalf of the petitioner as well as Mrs. T. Yangi. B, learned AAG appearing on behalf of the State respondent.

2. The learned Sr. counsel for the petitioner has led this Court to the copy of the FIR dated 14.03.2023 lodged before the Officer-in-Charge, Tura Police Station, Tura, West Garo Hills by one Shri. Amit Kumar Jain Bohra against the petitioner herein. The same was taken on record

registered as Tura P.S. Case No. 23(3) of 2023 under Section 420/468/471 IPC. The petitioner being named in the said FIR, has expressed apprehension of imminent arrest in course of investigation and has accordingly, under the provision of Section 438 Cr.P.C, approach this Court with this instant application.

3. The learned Sr. counsel has however fairly submitted that an earlier application for grant of pre-arrest bail was preferred before the learned Sessions Judge, Tura which was rejected vide order dated 25.04.2023. The said order has however not been impugned herein, though copy of the same has been annexed as Annexure-3 to this application. The learned Sr. counsel has then referred to the contents of the FIR to submit that that the dispute centers round a landed property situated at Fancy Valley, Tura, which property was gifted to the petitioner by his deceased grandfather (L) Deo Chand Jain Bohra. However, the complainant who is actually the elder brother of the petitioner, has filed the FIR asserting that the said land belong to one Smti. Kusum Gupta and on her behalf, has filed the FIR alleging perpetration of fraud and cheating by the petitioner as regard the registration of the said land before the authorities. This in essence, submits the learned Sr. counsel has the trappings of a civil dispute which ought not to have been brought before a criminal court by such FIR. However, without pursuing the merits of the dispute or the matter in question for the limited purpose of prayer for grant of pre-arrest bail, the

petitioner has therefore prayed before this Court for relief thereto.

4. The learned AAG on the other hand, has fairly submitted that a perusal of the said FIR would indicate that the subject matter has the nature of a civil dispute, but has however made a prayer for production of the case diary to enable this Court to ascertain the extent of investigation therein.

5. This Court after giving due consideration to the submissions made, and taking note of the contents of the said FIR, would agree with the parties that prima facie, it does appear to be a case of civil dispute, for which the parties have an alternative remedy to take recourse to.

6. Be that as it may, since the petitioner has expressed apprehension as far as arrest is concerned, the Court would consider such apprehension and in the light of what is stipulated under Section 438 Cr.P.C and by noting a catena of judgments passed in this regard where in such case, the Court is called upon to consider certain guidelines, parameters and factors relating to grant or non-grant of prayer for pre-arrest bail, one authority of which may be 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.

7. Having considered thus, this Court is of the opinion that this is a fit case for grant of pre-arrest bail to the petitioner. Accordingly, in the event of his arrest, the petitioner is directed to be released forthwith on the following conditions that:

- i) He shall not abscond or tamper with the evidence and witnesses;
- ii) He shall present himself before the Investigating Authority or the Court concerned as and when required;
- iii) He shall not leave the jurisdiction of India without prior permission of the I/O and
- iv) He shall produce a personal bond of ₹ 50,000/- (Rupees fifty thousand) along with two sureties of like amount to the satisfaction of the arresting authority or the Court concerned.

8. Accordingly, AB. No. 10 of 2023 is hereby disposed of. No costs.

Judge

Meghalaya
28.04.2023
"D. Nary, PS"