

Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 21 of 2023

Date of Decision: 31.07.2023

Shri. Samsul Hoque Choudhury Vs. State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Pandit, Adv.

For the Respondent(s) : Mr. R. Gurung, GA.
Ms. S. Shyam, 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 (ORAL)

1. Heard Mr. S. Pandit, learned counsel for the petitioner who has submitted that the petitioner is the father of the accused person namely, Md. Masum Ahmed Choudhury, aged about 20 years, who was arrested in connection with Khliehriat P.S. Case No. 10 (02) 2023 under Section 364A/34 IPC read with Section 21(b)/29 NDPS Act.

2. The learned counsel for the petitioner has briefly narrated the sequence of events to say that the son of the petitioner was allegedly kidnapped by a group of persons on 12.02.2023 when he was at

Sonapur, a place where his father, that is, the petitioner herein was doing business. However, the police have soon apprehended the alleged kidnappers who were travelling in two vehicles and the son of the petitioner was accordingly rescued.

3. In course of investigation, the police have come to a finding that from the kidnapped person, that is, the son of the petitioner herein, one soap box said to contain heroin was found. This too was on the leading upon of the main accused in the case. Accordingly, the police have registered a case under the NDPS Act and amongst the arrested persons, the son of the petitioner was also arrested.

4. During investigation, on evidence being collected, the Investigating Officer has come to a finding that there exists a prima facie case against the son of the petitioner, who was accordingly charge sheeted and directed to stand trial.

5. The learned counsel has further submitted that the factual aspect of the matter is that the accused son of the petitioner is nowhere involved with the alleged recovery of the contraband substances and has no connection with the other accused persons who were arrested in connection with the said NDPS case. He was in fact a victim of kidnapping, but on the police apprehending the kidnappers, he was falsely implicated in the case. The accused person being in custody for

almost 5 months 20 days, it is therefore prayed that this bail application may be allowed and that he may be enlarged on bail with any conditions that this Court may deem fit to impose.

6. Per contra, Mr. R. Gurung, learned GA appearing on behalf of the State respondent has submitted that the petitioner has not depicted the accurate picture of the case, inasmuch as, the accused son of the petitioner is a drug peddler and in course of his business dealings with some of the co-accused persons, perhaps relating to monetary exchange or consideration, he was not being paid as he has demanded. However, the Investigating Officer in his investigation, has found out that the accused son of the petitioner has admitted that he was handed over the said contraband substance by one person who is a resident of Karimganj at Tongseng village and he was to deliver the same to another co-accused in this case, that is, Shri. Banjop Sukhlain. Thereafter, after handing over the soap box to the said co-accused person and on payment being denied to him, he was forcefully dragged inside the car. Hence, the allegation of kidnapping.

7. The learned GA has further submitted that there is a clear evidence of the connection of the accused son of the petitioner with the other co-accused, inasmuch as, there are call detail records available which will show that the accused son of the petitioner is in constant

touch through mobile phone with the other co-accused, particularly Shri. Banjop Sukhlain. It is therefore prayed that there is no merit in this case and the same is liable to be dismissed.

8. On consideration of the submission made, what is to be noted here is that the case has been charge sheeted and as such, the submission of the petitioner on behalf of the said accused son is to be based on merit. Prima facie, on merit, it is seen that the alleged contraband substance was recovered from the accused son of the petitioner and that he also has a nexus with the other co-accused person said to be involved in the case of kidnapping as well as in the case of drug possession of peddling.

9. Given the seriousness of the case and the gravity of the offence, at this point of time, this Court is not inclined to concede to the prayer made by the petitioner.

10. Accordingly, bail application is hereby dismissed as devoid of merit and the same is disposed of. No costs.

Judge

Meghalaya
31.07.2023
"D. Nary, PS"