

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

BAIL. APPLN. No. 15 of 2024

K. Paone

... Petitioner

- Versus -

Officer-in-Charge, WPS, SPT

...Respondents

B E F O R E
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU

21.03.2024

[1] Heard Mr. L. Anand, learned counsel appearing for the petitioner and Mr. Y. Ashang, learned PP appearing for the State respondent.

[2] The present application has been filed with the following prayer:

- "(i) *To admit the petition/application.*
- (ii) *To allow the present petition/application under Section 439 Cr.P.C. praying for granting bail to the petitioner/accused in connection with FIR Case No. 4(10) 2023 Women Police Station SPT, U/S 307/326/34 IPC dated 20.10.2023, registered by the Women Police Station, Senapati District, Manipur for the alleged offences therein.*
- (iii) *Pass any order(s) and further relief(s) as the Hon'ble Court may deem fit in the interest of justice.*
- (iv) *The Hon'ble Court may also be pleased to dispense with the affidavit of the accused as she is presently in jail."*

[3] The grounds for filing the present application are as follows:

- (i) The petitioner is quite innocent and has no earlier criminal antecedent and had never committed any offence (s) during her lifetime and as such there are reasonable grounds for believing that the petitioner is not guilty of such offence and not likely to commit the alleged offence.
- (ii) The petitioner is falsely implicated in the alleged offence with ulterior motive.

(iii) The nature of third degree torture meted out against the petitioner/accused while in police custody speaks volume of oversight of humanity and human rights violation while in police custody which would shock the conscience of every human being.

(iv) The traumatic aftermath of such torturous act is still lingering and continuing to take a toll with the health of the petitioner. There is also no guarantee that such physical torture will not be repeated while in judicial custody.

(v) The torture of an innocent woman (accused) while in police custody under an allegations made in the FIR and whose charges have not been proved beyond reasonable doubt not only violates Article 21 of the Constitution of India and also amounts to manifest abuse of power by influential persons who have close affinities with the Police personnel/Officers of the concerned Police Station.

(vi) The petitioner has been in custody for a period of 125 days (hundred twenty five days) i.e for more than 4 (four) months till today and she has been languishing in jail when there is absolutely no evidence against her for commission of the alleged offences.

(vii) The petitioner/accused and her husband (co- accused) had left 4 (four) minor children out of 3 (three) of them are School going children and the last one is infant who have been all looked after by a sickly grand- mother who is more than 70 years old.

(viii) The welfare and well-being of the 4(four) minor children of the accused are in an uncertain situation which immediately requires mother's care and attention.

(ix) Allowing the petitioner to languish behind the bars further without any substantial evidence of the alleged offences will cause grave injustice to the petitioner and her 4 (four) minor children and will be an oversight of humanity and human rights. As her husband (the co-accused) is also behind bars, their 4 (four) minor children are completely left without any of their parents and they are presently going through a brutal fate.

(x) There is no merit in the prosecution case. No reliable or trust worthy incriminating material found or adduced by prosecution during the course of investigation and the investigation has no prima facie evidence to prove otherwise.

(xi) The trial is likely to take a long time and keeping the applicant behind the bar for an uncertain long period would amount to pre-trial punishment to the petitioner/accused which directly violates her fundamental right enshrined under Article 21 of Indian Constitution.

[4] The learned counsel appearing for the petitioner draws the attention of this Court to the following grounds:

- "(vii) *The petitioner/accused and her husband (co-accused) had left 4 (four) minor children out of 3 (three) of them are school going children and the last one is infant who have been all looked after by a sickly grandmother who is more than 70 years old.*
- (viii) *The welfare and well being of the 4 (four) minor children of the accused are in an uncertain situation which immediately requires mother's care and attention.*
- (ix) *Allowing the petitioner to languish behind the bars further without any substantial evidence of the alleged offences will cause grave injustice to the petitioner and her 4 (four) minor children and will be an oversight of humanity and human rights. As her husband (the co-accused) is also behind bars, their 4 (four) minor children are completely left without any of their parents and they are presently going through a brutal fate."*

[5] The learned counsel appearing for the petitioner further submits that the accused is languishing in jail for more than 5 (five) months. As such caused hardships to the family consisting of 4 (four) minor children, out of which, 3 (three) are school going children who need the instant care and protection of the present accused.

Further, it has also been submitted by the learned counsel appearing for the petitioner that they are pressing for releasing the present accused only. Since the present accused and her husband were languishing in jail for more than 5 (five) months, the present accused may kindly be released on bail so as to enable her to look after the 4 (four) minor children.

[6] The learned PP appearing for the State submits that during the course of investigation, no prima facie case is made out to attract Section 307 IPC and the only ground taken for not releasing the present accused is:

"The present petitioner being a well educated person and an influential figure in the society and also holding the post of General Secretary of Poumai Women Union, has every capability to influence the Prosecution witnesses or otherwise to tamper evidences or hamper the smooth process of investigation if she is released on bail at this stage."

[7] Considering the plight of the 4 (four) minor children and out of 4 (four), 3 (three) are school going children who need the instant care and protection of the present accused and on the top of that, the present accused with her husband were languishing in jail for more than 5 (five) months and the prosecution still could not complete the investigation and file the charge sheet, the present accused is released on bail on her furnishing a bond of Rs. 30,000/- (Rupees thirty thousand) only with one surety bond of like amount to the satisfaction of the concerned Court with the direction that the accused should not pressurize the investigating authority as well as the victim and witnesses during the investigation of the case.

The petitioner/accused should not leave the State of Manipur without prior information to the concerned Court. The petitioner/accused should co-operate with the investigation officer and should be herself present before the I.O. of the case whenever required.

[8] The present application is disposed of.

Furnish a copy of this order to the learned counsel appearing for the parties.

JUDGE

Bipin