



Serial No. 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No. 14 of 2025

Date of Order: 28.03.2025

Smti.Aisha Khatoon @ Pahari
W/o (L) Md. Amir Hussain of Lower Paltan Bazar;
Naspati Ghari, Jhalupara, Shillong,
East Khasi Hills District, Meghalaya
Presently lodged in District Prison & Correctional Home at
Shillong

..... Petitioner

-VERSUS-

1. The State of Meghalaya Represented by its Commissioner
And Secretary (Home) Shillong
2. Shri Karan T Pachau
S/o (L) Surfu Tamang of Police Reserve, Shillong
East Khasi Hills District, Meghalaya

..... Respondents

Coram:

Hon'ble Mr. B. Bhattacharjee, Judge

Appearance:

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

For the Respondent(s) : Mr. N.D. Chullai, AAG with
Mr. E.R. Chyne, GA



(ORAL)

By this Application under Section 528 BNSS, the petitioner has challenged the impugned order dated 27.02.2025 passed in Criminal Misc.Case No.2(H) of 2025 by the learned Special Judge (NDPS), Shillong, whereby bail granted to the petitioner in Mawlai P.S Case No.47 (05) of 2023 u/s 21(b) NDPS Act was cancelled on the ground of violation of condition of bail.

The fact of the present case is that the petitioner was arrested and was subsequently granted bail in Mawlai P.S Case No.47 (05) of 2023 by order dated 01.08.2023 on certain terms and conditions stipulated in the order. Out of the four conditions stipulated therein, the condition No.1 was that the petitioner should not commit similar offence. Thereafter, the petitioner was arrested again in connection with FIR dated 26.09.2024 registered as Lumdiengjri P.S Case No.103(09) of 2024 u/s 21(b) and 27A NDPS Act. Consequent to her arrest, on 28.01.2025, an application for cancellation of petitioner's bail in Mawlai P.S Case No.47 (05) of 2023 was filed on the ground that the petitioner has violated the condition No.1 of bail order dated 01.08.2023. The petitioner filed her show cause against the application for cancellation of bail on 12.02.2025. The learned Special Judge (NDPS), Shillong after hearing the parties, by order dated 27.02.2025 passed in Crl.Misc.Application No.2(H) 2025 cancelled the bail granted to the petitioner in Mawlai P.S Case No.47 (05) of 2023. Assailing the order dated 27.02.2025, the petitioner has preferred this application before this Court.

The learned counsel for the petitioner contends that the application for cancellation of bail was filed by a person who had no locus standi to file



the same. He contends that the application seeking cancellation of bail was premature and the learned Special Judge without calling for the records and without going through the materials, cancelled the bail of the petitioner mechanically and arbitrarily on mere presumption. He further contends that the learned Sessions Judge has not even recorded prima facie satisfaction as to the fact that the petitioner had committed the offence alleged and violated the related condition of bail. He submits that very cogent and overwhelming circumstances are necessary for passing an order of cancellation of bail, but no such circumstance is reflected in the impugned order dated 27.02.2025. He, therefore, submits that the impugned order is not tenable in the eye of law and is liable to be set aside and quashed. In support of his submission, the learned counsel has placed reliance on the decisions reported in (1995) 1 SCC 349, *Dolat Ram & ors vs. State of Meghalaya* and the order dated 11.03.2025 of Kerala High Court passed in *Crl.MC. No 970 of 2024, Jamsheer Ali vs. State of Kerala & anr.*

Mr. N.D. Chullai, learned AAG, on the other hand, vehemently opposes the submission made on behalf of the petitioner and submits that the fact of the petitioner's arrest in connection with the Lumdiengjri P.S Case No.103(09) of 2024 clearly shows that the petitioner has violated the condition of bail stipulated in the order dated 01.08.2023. He submits that the petitioner is a habitual offender and has misused the liberty granted to her by indulging in similar offence again. He submits that keeping in view all the attending circumstances and that the petitioner has committed the offence repeatedly by ignoring and violating the stipulation in the condition of bail, there is no merit in this petition and the same is liable to be dismissed forthwith. To buttress his submission, the learned AAG has



referred to the decisions in (2024) 4 SCC 222, *Himanshu Sharma vs. State of Madhya Pradesh*, order dated 30.07.2021 passed by the Apex Court in *Special Leave to Appeal (Crl.) No(s).1359/2022, Baldev Singh vs. State of Punjab* and order dated 25.03.2025 passed in *Crl.Petn No.113 of 2023, Union of India vs. Shri. Guddu Paswan* by this High Court.

From the submissions made by the parties and the documents on record, it is apparent that the petitioner, subsequent to her release on bail by order dated 01.08.2023, was arrested again in connection with the Lumdiengjri P.S Case No.103(09) of 2024 involving offence under the NDPS Act. There was a clear stipulation in the order dated 01.08.2023 at condition No.1 that the petitioner should not commit any similar offence. The learned Sessions Judge while dealing with the application for cancellation of bail, more particularly as to the question of locus standi of the applicant, found that the applicant was the complainant in Mawlai P.S Case No.47 (05) of 2023 and accordingly rejected the objection. Nothing has been placed before this Court by the petitioner to attribute any illegality to the above finding. As to the merits of the case, the learned Sessions Judge recorded that the petitioner admitted that she was arrested in Lumdiengjri P.S Case No.103(09) of 2024 which has been charge sheeted and pending trial before the Court. Further, the provisions of section 35 and section 54 of the NDPS Act was taken into consideration to justify the view that presumption exist that the petitioner has committed the offence while on bail in connection Mawlai P.S Case No.47 (05) of 2023. This Court also does not see any reason to interfere with the aforesaid view taken by the learned Sessions Judge.



The decision of *Dolat Ram & ors (Supra)* relied on by the learned counsel for the petitioner deals with a totally different situation and not applicable in the present case. The observation made therein was in relation to a case where the order passed by the learned Sessions Judge granting anticipatory bail in an alleged dowry death case was cancelled by the High Court. The Apex Court was not dealing with a case concerning cancellation of bail on the ground of violation of condition of bail. The decision of the High Court of Kerala in *Jamsheer Ali (Supra)* was also rendered in a different factual background where the High Court found that no subjective satisfaction was recorded in the order of cancellation of bail. In the present matter, the learned Sessions Judge has taken into consideration the fact of filing of the charge sheet in Lumdiengjri P.S Case No.103(09) of 2024 and pendency of the trial against the petitioner before recording its satisfaction as to the presumption of commission of similar offence by the petitioner. There is also no denial of the fact that both the cases i.e. Mawlai P.S Case No.47 (05) of 2023 and Lumdiengjri P.S Case No.103(09) of 2024 are pending before the learned Special Judge (NDPS), Shillong. Thus, the contention raised by the learned counsel for the petitioner is not supported by the materials on record.

For what has been discussed above, there is no merit in this petition and the same is hereby dismissed.

Judge

Meghalaya
28.03.2025
"Shrity"