

**BEFORE**  
**HON'BLE MR JUSTICE SR SEN**  
**BA No. 50 of 2014**

**13.11.2014**

Heard Mr. AS Siddiqui, learned counsel for the petitioner who submits that, the accused namely; **Md. Nur Islam** is in custody for more than 60 days and till date no charge-sheet has been filed. The learned counsel also pointed out the proviso of Section-167 (a) CrPC.

As far as the bail application placed before me, the accused has been book under Section 457/380 IPC.

The provision of Section-176 (a) CrPC has 2(two) parts i.e. (i) and (ii).

Section-167 (a) (i) CrPC speaks as *"ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years"*.

Section-167 (a) (ii) CrPC speaks as *"sixty days, where the investigation relates to any other offence"*.

On bare perusal of the proviso of Section-167 CrPC, it is understood and appears that legislation has divided that, maximum detention on the basis of punishment prescribed by different sections of penal laws.

On further perusal of Section-380 IPC, I find that punishment may be extended to 7 years.

Section-457 IPC has got 2(two) explanations; it may be extended to 5 years or if theft is prove, then in that case sentence may be extended up to 14 years.

Now, at this stage this Court is not in a position to ascertain whether theft will be proved or not, that is a matter of time, facts and evidence. Therefore, I am of the view that, Sections- 457 & 380 IPC fall within the parameter of Section-167 (a) (ii) CrPC where maximum detention can be up to 60 days, thereafter, he to be released on bail which is mandatory in nature. Hence, considering the provision of law, I am not in position to reject the bail application.

Mr. JM Thangkhiew, learned State counsel is present and also expressed the same view. Therefore, considering the sections involved herein as well as provision of Section-167 CrPC as referred to above, the accused person

namely; **Md. Nur Islam** is allowed to go on bail in connection with Laitumkhrah P.S. Case No. 131 (8) of 2014 U/s 457/380 IPC for a sum of Rs. 50,000/- with 1(one) surety of the like amount subject to the satisfaction of the learned CJM, Shillong provided he is not required in any other case or cases on the following conditions.

- i) The accused person shall be bound to appear before the IO concerned for the purpose of investigation, as and when necessary.
- ii) The accused person shall not make any attempt to conceal or interfere with any evidence.
- iii) The accused person shall not leave the jurisdiction of CJM, Shillong without prior permission.
- iv) The accused person shall be bound to face the trial as and when necessary.

With these observations and directions, this instant bail application is allowed and the matter stands disposed of.

**JUDGE**

V Lyndem

**BEFORE**  
**HON'BLE MR JUSTICE SR SEN**  
**CRL. PETN. No. 26 of 2014**

**13.11.2014**

Heard Ms R Paul, learned counsel for the petitioner as well as Ms H Kristazi, learned counsel for respondent who submits that, she has no objection if the FIR is quashed.

Mr. JM Thangkhiew, learned State counsel is also present.

Since the learned counsel for respondent No. 2 who is a de facto complainant has no objection if the FIR is quashed, hence, the matter can be considered. However, for record the learned counsel for respondent No. 2 is directed to file affidavit stating that, due to mistaken notion the FIR has been filed.

List this matter after 1(one) week as suggested by the learned counsel for the respondent.

**JUDGE**

V Lyndem