

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
B.A. No. 46 of 2014

14.10.2014

Heard Mr. S.M. Suna, learned counsel appearing for the petitioner who submits that the accused person was falsely implicated in this case without any fault of his own and also further submitted that the accused person namely, Shri Steward Diengdoh who is going to appear his selection examination for Class-X (ten) at D.N.S. Wahlang Memorial Secondary School, Mission Compound, Shillong was in custody since 15th August 2014 till date. So, in case if he is not allowed to go on bail, he is unable to sit in the examination and he may lose one year of his educational career.

On the other hand, Mrs. N.G. Shylla, learned State counsel appeared along with the I/O. The I/O submitted that the TIP has not been conducted and it is pending for TIP and fixed for TIP on 20.10.2014. So, bail application may not be considered.

It is a settled principle of law that on the ground of TIP, bail application cannot be rejected. Moreover, in this case, the accused person is a student and he has to appear his selection examination.

I have perused the certificate issued by the school authority as well as the examination routine which is at Annexure-V and VI and I have also taken into consideration that he is in custody for almost 2(two) months. I also could not understand for what reason the I/O has not done the TIP for such a long time. Whatever the case may be, TIP can be done at any time as desired by the I/O concerned, but this court is unable to accept the submission that for TIP, bail application be rejected and I also cannot shut down my eyes that the accused person is having examination and if he is not allowed to go on bail, I am sure he will not be able to sit for the examination and may lose one year of his educational career. Therefore, he is allowed to go on bail and to prepare his exam and to sit for the examination for a sum of Rs. 50, 000/- (Rupees fifty thousand) only with one surety of the like amount subject to the satisfaction of the learned Chief Judicial Magistrate, Shillong with the following conditions:

1. After conclusion of his examination, he will report before the I/O and thereafter, he will have to take participation in the TIP as and when the date is fixed by the I/O and

thereafter, as and when necessary to appear before the I/O for the purpose of investigation.

2. He shall not leave the jurisdiction of the Chief Judicial Magistrate without prior permission of the learned Chief Judicial Magistrate, Shillong.
3. He shall not interfere with the evidence or investigation or try to influence or threat any witnesses.
4. He shall be bound to face the trial as and when required.

Registry is directed to forward a copy of this order to the learned Chief Judicial Magistrate, Shillong immediately and also to furnish a copy of this order to the learned counsel for the State as well as to the learned counsel for the petitioner in the course of the day.

With this observation and direction, the instant bail application is allowed and stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CRL.M.C. No. 13 of 2014

14.10.2014

In the light of the order passed in CRL.REV.P. No. 16 of 2014
this Misc. Case also stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CRL.M.C. No. 15 of 2014

14.10.2014

Since Lower Court case record has been called for, this instant Misc. Case has no further meaning to proceed. Hence, stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CRL.PETN. No. 26 of 2014

14.10.2014

Heard Mr. G.A. Dkhar, learned counsel appearing for the petitioner.

Issue notice to the respondents.

Petitioner to take necessary steps.

Notice is made returnable within 2(two) weeks.

In the meantime, Registry is directed to call for the Lower court case record.

List this matter after 2(two) weeks.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CRL.REV.P. No. 16 of 2014

14.10.2014

Heard Mrs. Y. Shylla, learned counsel appearing for the petitioner who submits that the learned Addl. Deputy Commissioner, Ri Bhoi District, Nongpoh vide order dated 16.06.2014 has given interim relief in favour of the petitioner, but for the reasons best known to him, on 17.06.2014 he passed an order and kept in abeyance the order dated 16.06.2014.

Being aggrieved by the said impugned order dated 17.06.2014 the petitioner approached this court for necessary direction and order.

Mr. V.G.K. Kynta, learned Sr. counsel appearing for the respondents submits that the application filed before the learned Addl. Deputy Commissioner, Ri Bhoi District, Nongpoh was under the wrong provision i.e. under Rule 17 of the Administration of Justice and Police in the Khasi and Jaintia Hills, 1937 which should have been filed under the provision of the Cr.P.C. The learned counsel also further submitted that a civil case is pending pertaining to the subject matter before the learned District Council court and prays that this petition is not maintainable and the matter may be dismissed.

I have perused both the order dated 16.06.2014 as well as 17.06.2014 and on perusal of the impugned order dated 17.06.2014 it appears that the learned Addl. Deputy Commissioner, Ri Bhoi District, Nongpoh realized that the order dated 16.06.2014 may cause miscarriage of justice and therefore, he realized that before passing any order, hearing of all the parties is necessary.

I did not find anything wrong in the said impugned order of the Addl. Deputy Commissioner, Ri Bhoi District, Nongpoh and I also agree with the submission advanced by Mr. V.G.K. Kynta, learned Sr. counsel appearing for the respondents that the application has been moved under the wrong provision may be because of oversight. However, the question remains that the matter needs to be considered and redress in accordance with law. Therefore, I am of the considered view that it is a premature stage for the High Court to interfere with the impugned order dated 17.06.2014 and it is a fit case to remand back to the learned Addl. Deputy Commissioner, Ri Bhoi District, Nongpoh with a direction that the

petitioner should be allowed to correct the application and to place under proper provision of law and then notice to be issued to all the parties and then to hear all the parties and to pass necessary order as found deemed fit and proper in accordance with law.

I have also observed that while deciding this matter, the learned Addl. Deputy Commissioner, Ri Bhoi District, Nongpoh should ascertain whether any civil suit is pending pertaining to the same subject matter before any civil court. It is very clear that, if any civil suit is pending before any civil court, simultaneous proceeding under section 145 Cr.P.C is undesirable.

Both the parties are directed to appear before the learned Addl. Deputy Commissioner, Ri Bhoi District, Nongpoh on 20.10.2014 as the matter is urgent as submitted by the learned counsels as crops has already grown on the disputed land. In the meantime, till both the parties appear before the learned Addl. Deputy Commissioner, Ri Bhoi District, Nongpoh, the suit premises should not be disturbed by any of the parties. Let the learned Addl. Deputy Commissioner, Ri Bhoi District, Nongpoh if necessary may decide what to be done with these crops standing thereon.

Registry is directed to forward a copy of this order to the learned Addl. Deputy Commissioner, Ri Bhoi District, Nongpoh and also to furnish a copy of the order to the learned counsel for the parties in the course of the day.

With this observation and direction, this instant Criminal Revision Petition is allowed to that extent and stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CRP. No. 22 of 2014

14.10.2014

On being prayed by Mr. G.A. Dkhar, learned counsel for the petitioner for withdrawal of the instant petition, the petition stands disposed of on being withdrawal.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CRP. No. 23 of 2014

14.10.2014

On being prayed by Mr. G.A. Dkhar, learned counsel for the petitioner for withdrawal of the instant petition, the petition stands disposed of on being withdrawal.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
MC[REVIEW PET.] No. 10 of 2014

14.10.2014

Let this matter be listed day after tomorrow.

From the judgment and order dated 26.11.2013 passed in WP(C) No. 44 of 2013 it appears that Mr. B.K. Deb Roy was the counsel and that the judgment was delivered with the consent of both the parties.

Accordingly, list this matter on 16.10.2014.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C) No. 72 of 2013

14.10.2014

Heard Mr. B.K. Deb Roy, learned counsel appearing for and on behalf of the petitioner.

None has appeared for and on behalf of the respondents. However, the learned counsel for the petitioner informed that he has received a reply to the additional affidavit.

Since the pleading is complete, let this matter be posted for hearing after 3(three) weeks.

JUDGE

D. Nary