

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
BA(SH) No. 94 of 2013

15.07.2013

Heard Mr. B Bhattacharjee, the learned counsel for the petitioner who submits that, the accused person namely; **Shri. Deibor Mitre Kyndiah** has been arrested on 5.07.13 under Section-7 of the Prevention of Corruption Act and the case has been registered at Shillong Sardar as P.S. Case No. 205 (7) of 2013. Thereafter, he was remanded to police custody for 3 days and till date he is in judicial custody, so his further custody is not necessary and he may be allowed to go on bail.

The learned counsel further contended that, bail application has been moved before this Court as no judicial officer in the District Court at present has the special power to try under Prevention of Corruption Act.

On the other hand, Mrs. NG Shylla, the learned Addl. PP is present in the Court and produced the CD.

I have perused the CD.

On perusal of the CD, it appears that most of witnesses have already been examined, seizure has already been made. If it is so, I do not find any reason to further detain the accused for the purpose of investigation; hence, the accused is allowed to go on bail with a sum of Rs. 20,000/- with one surety of the like amount subject to the satisfaction of the learned Chief Judicial Magistrate, Shillong on the following conditions.

- i) The accused shall appear before the IO concerned as and when necessary for the purpose of investigation.
- ii) The accused shall not interfere with the investigation or tamper with any evidence.
- iii) The accused shall appear before the Trial Court to face trial as and when necessary.

Before I part with the case record, I hereby direct the Secretary, Law Department, Govt. of Meghalaya to issue power under different Special Act to the concerned officers as deemed fit and proper. This power should be issued within 3 days from the date of receipt of this order.

Court Master is directed to return the CD to the learned PP along with a copy of this order and also to forward a copy

of this order to the Secretary, Law Department, Govt. of Meghalaya immediately.

Mr. KS Kynjing, Advocate General is present in the Court and he is also requested to take up the matter with the Government pertaining to the issuance of the power under Special Act.

With the above observations and directions, the matter stands disposed of.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
AB (SH) No. 96 of 2013

15.07.2013

Heard Mr. B Laitmon, the learned counsel for the petitioners.

Bail application will be considered after perusal of CD.

Call for CD.

In the meantime, in the event of arrest the accused/petitioners to be released on bail with a sum of Rs. 10,000/- each with one surety each of the like amount on the following conditions.

i) The accused/petitioners shall not interfere with the investigation or tamper any evidences.

ii)The accused/petitioners shall not create any fear psychosis in the mind of the complainant.

List this matter on 22.07.13 as suggested by Mr. R Gurung, the learned Addl. PP. In the meantime, this interim order shall continue till disposal of this bail application.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
BA (SH) No. 95 of 2013

15.07.2013

Heard Mr. AH Hazarika, the learned counsel for the petitioner as well as Mr. ND Chullai, the learned senior PP.

I have perused the impugned order dated 6.07.13.

On perusal of the order, I am of the considered opinion that, the matter is too pre-mature for consideration of bail, hence, I am not inclined to interfere with the matter at this stage and the bail application stands rejected.

The learned Magistrate is directed to consider to bail application in future independently, if file by the party without being influenced by the observations made by this Court and the matter stands disposed of.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
AB (SH) No. 90 of 2013

15.07.2013

Heard Mr. G Marak, the learned counsel for the petitioner who submits that, the police has recovered all the explosives materials, as such, there is no nothing left to investigate the matter.

Mrs. NG Shylla, the learned Addl. PP is present in the Court and produced the CD.

I have perused the CD.

On perusal of CD and after considering the nature of the case, I could not satisfy myself if pre-arrest bail is granted in these types of cases, investigation will not be hampered, hence, interim bail cannot be considered and stands rejected.

Interim bail granted earlier vides order dated 8.07.13 stands vacated and disposed of.

Court Master is directed to return the CD to the learned Addl. PP.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
Cont. Case(SH) No. 11 of 2013

15.07.2013

Heard Mr. P Nongbri, the learned counsel for the respondent who sought 2(two) weeks' time for filing of counter affidavit.

Prayer is allowed.

Mr. S Thapa, the learned counsel for the petitioner is present and has no objection.

List this matter on 29.07.13.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CrI. Petn. (SH) No. 42 of 2013

15.07.2013

Heard Mr. P Nongbri, the learned counsel for the petitioner who submits that service report has not yet been received.

Wait for service report.

List this matter on 5.08.13.

Mr. ND Chullai, the senior learned state counsel is present.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CrI. Petn. (SH) No. 43 of 2013

15.07.2013

Heard Mr. P Nongbri, the learned counsel for the petitioner who submits that service report has not yet been received.

Wait for service report.

List this matter on 5.08.13.

Mr. ND Chullai, the senior learned state counsel is present.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CrI. Petn. (SH) No. 44 of 2013

15.07.2013

Heard Mr. P Nongbri, the learned counsel for the petitioner who submits that service report has not yet been received.

Wait for service report.

List this matter on 5.08.13.

Mr. ND Chullai, the senior learned state counsel is present.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CrI. Petn.P (SH) No. 46 of 2013

15.07.2013

Heard Mr. BK Singh, the learned counsel for the petitioner who submits that the learned Chief Judicial Magistrate has whimsically accepted the FR vide order dated 2.04.13 without giving any notice or hearing to the complainant, hence, this instant petition.

Lower Court case record was called for.

Accordingly, it has been placed before me today.

Mr. ND Chullai, the learned senior PP is present as well as Mr. SP Mahanta, respondent No. 2 in person.

Perused the impugned order dated 2.04.13.

On perusal of the said order, I find that the learned Court simply accepted FR without recording reasons of her satisfaction to accept FR.

General principles which guide for accepting FR are as follows:-

- i) That, cases filed under FR, it is the duty of the Court to issue notice to the defacto complainant to record his/her statement whether he/she has satisfied with the investigation or objecting FR.
- ii) If, there is any objection or no objection to the FR filed by the defacto complainant, it is the duty of the Court to scrutiny the record of FR and to record reasons why FR has been accepted or to order for further investigation.

Since the learned Chief Judicial Magistrate has failed to do so, the order dated 2.04.13 has no leg to stand. Accordingly, it is hereby set aside and remanded back to the learned Court of Chief Judicial Magistrate to consider FR in accordance with law, after issuing notice and by giving an opportunity of hearing to the defacto complainant.

The learned Chief Judicial Magistrate is also directed to dispose of the matter expeditiously as early as possible.

Registry is further directed to return the CD along with a copy of this order.

With these observations and directions, the matter stands disposed of.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
MC(EP)(SH) No. 240 of 2013

15.07.2013

Heard Mr. HS Thangkhiew, the learned senior counsel for the applicant who submits that, Chief Election Officer, State of Meghalaya i.e. respondent No. 7 has no roll in this instant case and he has been made un-necessary party, so he may be dropped from the case to which Mr. K Paul, the learned counsel for the respondent has no objection.

According, respondent No. 7 is hereby struck-off from the instant case.

Registry is directed to make necessary correction in the Cause Title accordingly.

With these observations and directions, the Misc. application stands disposed of.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
MC(EP)(SH) No. 241 of 2013

15.07.2013

Heard Mr. HS Thangkhiew, the learned senior counsel for the applicant as well as Mr. DK Bhattacharya who submits that, the matter may be listed along with the Main Case on 29.07.13.

Prayer is allowed.

List this matter accordingly.

JUDGE

V.Lynden.

**BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C)(SH) No 26 of 2010**

15.07.2013

List this matter on 12.08.2013 as suggested by Mr. J. Shylla, the learned counsel appearing on behalf of Mr. M. Chanda, the learned counsel for the petitioner.

List it accordingly.

JUDGE

V. Lyndem

**BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C)(SH) No. 312 of 2010**

15.07.2013

Heard Mr. S. Choudhury, the learned counsel for the petitioner who sought for 2(two) weeks' time on the ground that he has been engaged very recently in this instant case.

Prayer is allowed.

Mr. H.S. Thangkhiew, the learned senior counsel is present as well as Mrs. N.G. Shylla, the learned State counsel.

List this matter on 29.07.2013.

JUDGE

V. Lyndem

**BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C)(SH) No. 374 of 2010**

15.07.2013

As prayed for by Mr. S. Dey, the learned counsel for the district council, list this matter on 05.08.2013.

JUDGE

V. Lyndem

**BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C)(SH) No. 439 of 2010**

15.07.2013

List this matter after 2 (two) weeks as prayed for by Mrs. S. Bhattacharjee, the learned counsel for the petitioner as well as Mr. M.F. Qureshi, the learned counsel for the respondent.

List it on 29.07.13.

JUDGE

V. Lyndem

**BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C)(SH) No. 136 of 2011**

15.07.2013

Heard Mrs. S. Bhattacharjee, the learned counsel for the petitioner who submits that, she needs 4 (four) weeks time to file the rejoinder affidavit.

List this matter on 12.08.2013.

JUDGE

V. Lyndem

**BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C)(SH) No. 148 of 2011**

15.07.2013

List this matter on 29.07.2013.

JUDGE

V. Lyndem

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C)(SH) No. 160 of 2011

15.07.2013

Heard Mr. K. Garod, the learned counsel for the petitioner who submits that, Mr. H. Nongkhaw, the leading counsel is not keeping well, so the matter may be adjourned for 2(two) weeks.

Prayer is allowed.

List this matter on 29.07.2013.

Mr. S. Sen Gupta, the learned Addl. P.P is present.

JUDGE

V. Lyndem

BEFORE

HON'BLE MR. JUSTICE S.R. SEN
WP(C)(SH) No. 259 of 2011

15.07.2013

List this matter on 12.08.2013 as suggested by Mr. J. Shylla, the learned counsel appearing for on behalf of Mr. M. Chanda, the learned counsel for the petitioner.

List it accordingly.

JUDGE

V. Lyndem

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
Crl.Appl.(SH) No. 2 of 2013

15.07.2013

List this matter on 22.07.2013 as suggested by Mr. C.H. Mawlong, the learned counsel for the petitioner as well as Mr. R. Gurung, the learned Addl. P.P.

JUDGE

V. Lyndem