

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
B.A. No. 141 of 2013

15.11.2013

Heard Mr. H. Abraham, learned counsel appearing for and on behalf of the accused persons who submits that, accused persons namely, Shri Sengmen T. Sangma in BA. No. 141 of 2013 and Shri Anseng A. Sangma in BA. No. 142 of 2013 were arrested by the police on 22.07.2013 in connection with Tura P.S. Case No. 142(7) 2013 U/S 120(B)/121/121(A)/384/511/212 IPC R/w Section 17/18/19/39 ULA (B) Act. And since then, they are in custody for almost 110 days and till date no charge sheet has been filed, nor case is proceeding further. So, they may be allowed to go on bail.

As directed, Mr. S. Sen Gupta, learned Addl. P.P has produced the C.D.

Considering the offence is definitely serious in nature, however, we are bound by the statute.

Section 167 CRPC Proviso (a) as follows:

“(a) the Magistrate may authorise the detention of the accused persons, otherwise, than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding,-

- (i) Ninety days, where the investigation relates to an offence punishable with death, imprisonment of life or imprisonment for a term of not less than ten years;***
- (ii) Sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and thus furnish bail,***

and every person released on bail under the subsection shall be deemed to be so released under the provisions of Chapter XXXIII for the purpose of that Chapter;]

On bare perusal of the Proviso U/S 167 CRPC, it is pertinently clear that no accused can be detained more than 90 days or 60 days in absence of charge sheet. Since, in this case, the accused persons are in custody for 110 days, which is an admitted fact by the Prosecution, so I do not find any reason or ground to reject the bail application.

Accordingly, both the bail applications are allowed by the common order and accused persons are allowed to go on bail for a sum of Rs. 50, 000/- (Rupees fifty thousand) only each with one surety of the like amount subject to the satisfaction of the learned court below in connection with the above referred case with following conditions:

1. The accused persons shall not interfere with the investigation or tamper with the evidence.
2. Accused persons shall not indulge in any kind of threat or intimation.
3. Accused persons shall be bound to co-operate with the I/O as and when required.
4. Accused persons shall face the trial as and when required.

With this direction and observation, these bail applications are allowed and stands disposed of.

Court Master to return the C.D to the learned Addl. P.P immediately.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
B.A. No. 142 of 2013

15.11.2013

Heard Mr. H. Abraham, learned counsel appearing for and on behalf of the accused persons who submits that, accused persons namely, Shri Sengmen T. Sangma in BA. No. 141 of 2013 and Shri Anseng A. Sangma in BA. No. 142 of 2013 were arrested by the police on 22.07.2013 in connection with Tura P.S. Case No. 142(7) 2013 U/S 120(B)/121/121(A)/384/511/212 IPC R/w Section 17/18/19/39 ULA (B) Act. And since then, they are in custody for almost 110 days and till date no charge sheet has been filed, nor case is proceeding further. So, they may be allowed to go on bail.

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- (i) Ninety days, where the investigation relates to an offence punishable with death, imprisonment of life or imprisonment for a term of not less than ten years;***
- (ii) Sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on***

bail if he is prepared to and thus furnish bail, and every person released on bail under the subsection shall be deemed to be so released under the provisions of Chapter XXXIII for the purpose of that Chapter;]

On bare perusal of the Proviso U/S 167 CRPC, it is pertinently clear that no accused can be detained more than 90 days or 60 days in absence of charge sheet. Since, in this case, the accused persons are in custody for 110 days, which is an admitted fact by the Prosecution, so I do not find any reason or ground to reject the bail application.

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2. Accused persons shall not indulge in any kind of threat or intimation.
3. Accused persons shall be bound to co-operate with the I/O as and when required.
4. Accused persons shall face the trial as and when required.

With this direction and observation, these bail applications are allowed and stands disposed of.

Court Master to return the C.D to the learned Addl. P.P immediately.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
BA. No. 148 of 2013

15.11.2013

Heard Mr. R. Sharon, learned counsel appearing for and on behalf of the petitioner who submits that, in this instant case, the Investigating Agency has already filed a charge sheet, and the trial is proceeding, and Special Judge (NDPS) court has examined as many as 5(five) witnesses. However, 6(six) witnesses are left, and accused person is suffering from Tuberculosis, so bail may be considered.

Also heard Mr. R. Gurung, learned Addl. P.P appearing for and on behalf of the State. Since the matter is under process of trial, and some of the witnesses are already examined by the court, I am not inclined to consider the bail application at this stage. However, State to arrange better and best medical treatment for the accused.

Special Judge (NDPS) is directed to expedite the trial and to dispose of the matter on merit as well as law preferably within 4(four) months.

Accordingly, the matter stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CRL.A. No. 4 of 2011

15.11.2013

As suggested by the learned counsel for the parties, list this matter on 19.11.2013.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CRP. No. 54 of 2013
WITH MC(CRP) No. 357 of 2013

15.11.2013

Heard Mr. K. Paul, learned counsel appearing for and on behalf of the petitioner.

Issue notice to the respondent.

Notice is made returnable within 3(three) weeks.

Petitioner's counsel to take necessary steps within 3(three) days.

Call for the Lower Court case record.

In the meantime, nobody is allowed to disturb the possession of the suit premises in question.

List this matter on 06.12.2013.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CRP. No. 55 of 2013
WITH MC(CRP) No. 358 of 2013

15.11.2013

Heard Mr. K. Paul, learned counsel appearing for and on behalf of the petitioner.

Issue notice to the respondent.

Notice is made returnable within 3(three) weeks.

Petitioner's counsel to take necessary steps within 3(three) days.

Call for the Lower Court case record.

In the meantime, nobody is allowed to disturb the possession of the suit premises in question.

List this matter on 06.12.2013.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
MC(CRP) No. 357 of 2013

15.11.2013

In the light of the order passed in CRP. No. 54 of 2013
this instant Misc. Case stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
MC(CRP) No. 358 of 2013

15.11.2013

In the light of the order passed in CRP. No. 55 of 2013
this instant Misc. Case stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
W.P.(C) No. 214 of 2011

15.11.2013

As suggested by the learned counsel for the parties, list this matter after 25.11.2013.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
W.P.(C) No. 224 of 2011

15.11.2013

As Mr. R. Debnath, learned CGC said that, he needs some more time to study the matter, list this matter after 2(two) weeks'.

Petitioner's counsel, Mr. A.H. Hazarika is present.

List this matter on 29.11.2013.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
W.P.(C) No. 323 of 2011

15.11.2013

Heard Mr. S. Chakravarty, learned counsel appearing for the petitioner who submits that, he needs 2(two) weeks' time to get further instruction from his client.

Learned Sr. counsel, Mr. H.S. Thangkhiew is present.

List this matter on 29.11.2013.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
W.P.(C) No. 361 of 2011

15.11.2013

None is present.

List this matter on 02.12.2013.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
W.P.(CRL) No. 8 of 2012

15.11.2013

The Judgment and order dated 15.11.2013 delivered today in open court.

Judgment and order consists of 4(four) pages.

Writ petition is allowed and the matter stands disposed of.

JUDGE

D. Nary