

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
BA(SH) No. 40 of 2013

22.04.13

Heard Mr.MF Qureshi, the learned counsel for the petitioner who submits that in this instant case, the main accused persons were alleged to have been absconded and the other 2(two) accused persons namely; **Shri. Ramdingsanga and Shri. Rinzuala alias Joshep** are in judicial custody w.e.f. 25th August 2012 in connection with Spl. (NDPS) Case No. 49 of 2012 under Section 22, 23 and 29 of the Narcotics Drugs and Psychotropic Act, 1985.

The learned counsel further contends that though they are in custody and charge-sheet has already been filed but no trial has proceeded till date on the ground that the main accused are absconding. In such a situation, bail application was moved before the Spl. Judge NDPS and the Spl. Judge was pleased to reject the bail application. Hence, compelled the petitioner to approach this Court in this instant bail application.

Also heard Mrs. T. Yangi, the learned counsel for the respondent, who submits that efforts are on to apprehend the absconding persons. Since those accused persons could not be arrested till date, trial against the detenu could not be proceeded.

After hearing the submissions advance by the learned counsel at bar and considering the gravity of the offence, I am not inclined to consider bail application. However, I am concerned that since the accused persons are in custody almost for 9(nine) months, so trial should begin immediately without any further delay.

It is a fact that provision for bail in NDPS Act is a stringent measure but it does not mean that bail will not be considered and at the same time trial will not be proceeded, this amount interference with the liberty of the persons. Hence Spl. Judge NDPS is directed to split the case immediately taking recourse Section 317 CrPC and to proceed with the trial against the detenu namely; Shri. Ramdingsanga and Shri. Rinzuala alias Joshep who are presently in custody and to

dispose of the same within 3(three) months from the date of receipt of this order without any further delay.

With these observations and directions, this instant bail application is rejected and disposed of.

Registry is directed to communicate this order to Spl. Judge, NDPS concerned for compliance.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
Crl. Petn. (SH) No. 68 of 2011

22.04.13

Heard the learned counsel for both the parties.

Ms. A Thangkhiew, the learned counsel submits that Mr. HS Thangkhiew, the learned senior counsel is out of station in connection with eye check-up and prayed that the matter may be fixed after 1(one) week.

Prayer is allowed to which Mr. Bhattacharjee, the learned counsel for the petitioner has no objection.

List this matter on 29.04.13.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C)(SH) No. 80 of 2013

22.04.13

This instant writ petition has been taken up on the basis of the Notification dated 22.04.13 issued by Deputy Registrar as per verbal direction of the Hon'ble Chief Justice, High Court of Meghalaya vide Notification No. Memo.No. HCM-III/01/2013/472-88, dated 22.04.13.

Heard Ms. N Hawelia who submits that JUD Cements Ltd. was in financial constrain due to certain losses incurred therein. As a result the company could not pay the dues for the different parties including Meghalaya Power Distribution Corporation Ltd.

The learned counsel further contended that after revival of the company certain payment were made but they could not make full payment as demanded by the respondent No. 2 and the respondent No. 2 disconnected the electricity connection/supply w.e.f. 28.3.13. As a result the entire factory has become non-functional and the company is facing huge financial losses.

The learned counsel also further submits that the company is ready to make payment of the current charges in full and arrear in instalment by way of 25 lakhs per month. Further contends that before disconnecting the power supply, the respondent No. 2 did not comply with the provision of the Section 56 of Electricity Act, 2003 and prayed that necessary order may be passed to restore electricity as the said company is facing hardships.

On the other hand, Mr. KS Kynjing, the learned senior counsel submits that this is not the first time that the respondent is compelled to disconnect the power supply but on earlier occasion also, the petitioner failed to pay the dues, as a result it was disconnected.

The learned senior counsel further contended that at Annexure-C at (Page-35) as notice under Section-56 of Electricity Act, 2003, so there is no violation on the part of the respondent and prayed that notice may be issued.

After hearing the submissions advance by both the counsel for the parties, I feel that it is necessary that the matter need to be examined further.

Issue notice to the respondents.

The petitioner to take necessary steps to serve notice upon the respondents. Since Mr. KS Kynjing, the learned senior counsel and Mr. K. Khan, the learned counsel has entered appearance and accepted notice on behalf of the respondent No. 2 and respondent No. 1 respectively, no formal notice are called for.

In the meantime, it is also necessary for the ends of justice, the company should not suffer when they are ready to pay the current charges regularly and arrear by way of instalment.

Therefore, the respondent No. 2 is hereby directed to restore the power supply/connection immediately and the petitioner is also directed to pay the current charges on due dates regularly and arrear by way of instalment as agreed by the petitioner's counsel above.

List this matter on 20.05.13 as suggested by the learned counsel for the parties.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
MC (SH) No. 109 of 2013 in
WP(C)(SH) No. 80 of 2013

22.04.13

In the light of the order passed today in the WP(C)(SH) No. 80 of 2013, this instant Misc. Case also stands disposed of.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C)(SH) No. 81 of 2013

22.04.13

This instant writ petition has been taken up on the basis of the Notification dated 22.04.13 issued by Deputy Registrar as per verbal direction of the Hon'ble Chief Justice, High Court of Meghalaya vide Notification No. Memo.No. HCM-III/01/2013/472-88, dated 22.04.13.

Heard Mr. S. Chakraborty, the learned counsel for the petitioner who submits that the impugned order dated 5.4.13 was passed without being heard in Misc. Case No. 1 of 2013 arising out of Title Suit No. 1 of 2013.

Being aggrieved by the said order as principle of justice has been violated, the petitioner approached the Appellate Court by way of appeal registered as Civil Appeal 1 of 2013. The learned Appellate Court passed another impugned order dated 19.04.13 where he failed to appreciate the violation caused by the Lower Court. As a result, compelled the petitioner to approach this Court in this writ petition.

Also heard Mr. ND Chullai, the learned senior state counsel who submits that transactions between the parties are void is due to barrier of the Land Transfer Act passed in Meghalaya.

After hearing the submissions advanced by the learned counsel for the parties, I feel that this petition can be disposed of at this stage with a direction to the 1st Lower Court to hear both the parties afresh and then pass necessary order in accordance with law.

Accordingly, the impugned orders dated 5.04.13 and 19.04.13 are hereby set aside. However, in the meantime, both the parties are directed not to indulge in any illegal activities till the matter is disposed by the Court.

With these observations and directions, this instant writ petition is allowed and stands disposed of.

JUDGE

V. Lyndem.

