

**BEFORE**  
**HON'BLE MR JUSTICE SR SEN**  
**BA No. 47 of 2014**

**27.10.2014**

Heard Mr S Marpan, learned counsel for the petitioner who submits that the accused person namely; **Shri. Sontak Prem Baite** has been arrested on mere suspicion on the ground that some wireless handsets were found from his possession. Subsequently, a case has been registered as Nongpoh P.S. Case No. 204 (12) 2013 u/S 118/120 (B)/121/34 IPC R/w Section 16/16 A/18/19/20/39 of ULA (P) Act and he is in custody since 1.12.2013. The case has already been charge-sheeted and bail application was moved but the same was rejected by the Court of the learned Session Judge, Nongpoh. The learned counsel further submitted that, the accused person is still languishing in jail and since the case is not serious, so he may be allowed to go on bail.

Mr. ND Chullai, learned senior counsel assisted by Mr. R Gurung, learned State counsel submits that, from the charge-sheet and seizure list, it appears that the accused person was found with wireless handsets; hence, there is every possibility that he might be involved in the unlawful activities, so bail may not be granted.

I have perused the Lower Court case record and after considering the rival submissions advanced by the learned counsel as well as the order passed by the learned Session Judge, Nongpoh, I could not satisfy myself that there is sufficient reason to reject the bail.

We must remember that, till date the accused person is a mere accused and he cannot be considered as a criminal or convict unless and until his guilt is proved. Rejection of bail should not be considered as a punitive measure, punitive measure should be decided only after trial. I also do not agree with the order observed by the learned Session Judge that, case cannot proceed due to lack of interest of the accused person as the accused is in custody, to expedite the trial depends upon the Court. Further, I am also of the view that, if the accused person is released on bail, he will be in a better position to defend himself.

For the reasons as discussed above, the accused person is allowed to go on bail for a sum of Rs. 1 lakh with 1(one) surety of the like amount subject to the satisfaction of the learned

Session Judge, Nongpoh in case if he is not required in any other case or cases with the following conditions.

i) the accused person shall not leave the jurisdiction of the CJM Shillong without prior permission.

ii) the accused person shall be bound to appear before the Court concerned to face the trial as fixed by the learned Session Judge, Nongpoh.

I further make it clear that, in case, if the accused person violates the conditions as mentioned above, prosecution will be at liberty to move for cancellation of the bail.

Registry is directed to return the Lower Court case record to the Court concerned.

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. 21 of 2014**

**27.10.2014**

Heard Mr S Thapa, learned counsel for the petitioner who submits that, the accused person namely Dr. Suryajeet Kapoor has entered an agreement with the complainant to supply certain goods. The learned counsel further submits that, the said goods were supplied but the complainant denied to have received the same and filed a false complaint. Hence this petition for quashing the FIR by invoking the power under Section 482 CrPC.

On the other hand, Mr. ND Chullai, learned senior counsel assisted by Mr. R Gurung, learned State counsel submits that the accused person is absconding and the learned Court CJM, Shillong has already issued a warrant.

Mr. B Bhattacharjee, learned counsel appearing for respondents No. 2, 3 & 4 also support the submissions advanced by the learned senior State counsel. The learned counsel further submits that, the accused person is frequently changing his identity, hence, the petition should be dismissed.

I have perused the CD produced by the learned senior State counsel.

After perusal of the CD, I could not satisfy myself that there are sufficient reasons to interfere with the FIR or with the investigation.

It is a settled principle of law that Section-482 CrPC is a special power which needs to be applied with care and caution to prevent the abuse of the process of law. In this instant case, I do not find any reason that there is abuse of the process of law. Therefore, I decline to consider the petition, hence, it is rejected and the matter stands disposed.

Registry is directed to return the CD to the learned senior State counsel immediately.

**JUDGE**

V Lyndem

**BEFORE**  
**HON'BLE MR JUSTICE SR SEN**  
**CRP No. 18 of 2014**

**27.10.2014**

Heard Mr K Baruah, learned counsel for the petitioner who submits that, he has filed an affidavit dated 21.10.2014 wherein it appear that, respondent No. 1 Shri. Builder Singh Kaitkuna Syiemlieh had expired in the year 2011, as such, notice could not be served. If it is so, let the matter be placed before the learned Assistant to Deputy Commissioner to pass necessary order.

Also heard Ms PS Nongbri, learned counsel appearing for respondent No. 2.

After hearing the submissions advanced by the learned counsel for the parties, Assistant to Deputy Commissioner is directed to dispose the matter in the light of order passed by this Court on 21.06.2013 in CRP (SH) No. 35 of 2013. The matter stands disposed of.

**JUDGE**

V Lyndem