

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
AB (SH) No. 58 of 2013

29.05.13

Heard Mr. G Marak, the learned counsel for the petitioner who submits that from the FIR, it is nowhere reflected that the petitioner/accused is involved in the case. Besides that he is appearing before the IO regularly, so his custody is not necessary and the police can investigate the case without his custody.

Mr. R Gurung, the learned PP objected the bail application further submits that the accused is the prime accused and for the purpose of fair investigation, custody is very much required.

The IO Mr. WM Marbaniang, is present in the Court, produced the CD and prayed for custody.

I have perused the CD.

After perusal of the CD, I could not find sufficient materials to my satisfaction that bail can be considered at this stage; rather in my view investigation may be hampered. Hence, bail application is hereby rejected and stands disposed of.

Interim order passed earlier on 20.05.13 stands withdrawn.

Registry is directed to return the CD to the IO concerned along with a copy of this order immediately.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
BA (SH) No. 63 of 2013

29.05.13

Heard Mr. TT Deingdoh, the learned counsel for the petitioner who submits that a bail application moved before this Court on 26.04.13 in BA (SH) No. 39 of 2013 was rejected. On scrutiny of the Lower Court case record it was found that on 23.04.13, a bail was granted to the accused without the knowledge of the learned counsel, as such, he could not apprise the situation before the Court while moving bail application on 26.04.13.

Considering the submissions advanced by the learned counsel, Lower Court case record was called for, accordingly, Lower Court case record has been placed before this Court.

On perusal of the order dated 23.04.13, it appears that bail was granted by the Judicial Magistrate, District Court Shillong on the ground that the accused person is in detention w.e.f. 11.02.13. Since the learned Magistrate found that the maximum period as specified under Section 167 proviso (a) (ii) CrPC has been completed, Suo-Motto granted bail.

On perusal of Protection of Children from Sexual Offences, Act, 2012, it is clearly specified that, Section-28 made provision to notify and to trial the case under the said Act by a Court of Session as Special Court. Therefore, I could not understand how this case has been endorsed to the Judicial Magistrate which is contrary to the Section-28 of Chapter-VII of the said Act. Hence, the matter is remanded back to the Special Court to consider the bail application as and when filed by the petitioner ignoring the order passed by this Court vide order dated 26.04.13 as the accused is already in custody more than 90 days as submitted by the learned counsel for the petitioner.

Mrs. NG Shylla, the learned Addl. PP is present.

Registry is directed to roll back the Lower Court case record along with a copy of this order to the concerned court immediately.

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

JUDGE

V.Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP (Cr1.)(SH) No. 4 of 2013

29.05.13

Heard Mr. S Dey, the learned counsel for the petitioner who prayed that the matter may be fixed after 1(one) week.

Prayer is allowed.

Mr. K Khan, the learned senior Addl. PP is present.

List this matter on 5.06.13.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP (Cr1.)(SH) No. 332 of 2012

29.05.13

Heard Ms. SG Momin, the learned counsel for the petitioner as well as Mr. S Sen Gupta, the learned Addl. PP who submits that the matter may be fixed after 10(ten) days as he is yet to obtain the file from the Government.

Prayer is allowed.

List this matter on 10.06.13.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
BA (SH) No. 64 of 2013

29.05.13

Heard MR. AS Siddiqui, the learned counsel for the petitioner who submits that the accused namely; Shri. Ved Kumar Arya was arrested on 10.05.13 and remanded to police custody for 7(seven) days. After expiry of police custody, he was remanded further for judicial custody for 2(two) weeks. The learned counsel further contended that since he is in judicial custody there is no question of further interrogation, so he may be released on bail.

Mr. R. Gurung, the learned Addl. PP submits that the accused may be released on bail after recording his confessional statement.

IO is present in the Court, produced the CD and further submits that if the accused is released, he may again create problem to the complainant.

I have perused the CD.

On perusal of the CD and considering the submissions advanced by the learned counsel, I could not satisfy myself as to why bail should not be considered; besides that bail cannot be considered as a punitive measure. Moreover, the accused person cannot be detained in custody for an indefinite period without sufficient cause; therefore, I find that it is a fit case where bail can be granted.

Accordingly, the accused is allowed to go on bail for a sum of Rs. 30,000/- with one surety of the like amount on the following conditions.

- i) He shall not disturb the complainant in any manner.
- ii) He shall appear before the IO concerned as and when necessary for the purpose of investigation.
- iii) He shall appear for recording his confessional statement.
- iv) He shall not interfere with the investigation or tamper any evidence.

The learned court below to consider and to accept the bail bond etc. subject to his/her satisfaction.

With these observations and directions, bail application is allowed and the matter stands disposed of.

Registry is directed to return the CD to the learned Addl. PP.

JUDGE

V. Lyndem

