BEFORE
HON'BLE MR. JUSTICE S.R. SEN
B.A. No. 155 of 2013

07.01.2014

Heard Mr. S. Chakraborty, learned counsel for the petitioner who submits that the accused was arrested on mere suspicion as nothing was recovered from his physical possession and the contraband items seized 645 grams of brown sugar was rather recovered from "M/S Fedex Express Pvt. Ltd" on the basis of the information given by "M/S Fedex Express Pvt. Ltd" and further argued that the accused Gideon Syiem, local person, so a chance of absconding is not there. So, he may be allowed to go on bail with any condition.

On the other hand, the learned counsel for the respondent, Mrs. T. Yangi submits that it is an undisputed fact that Mr. Gideon Syiem has booked the consignment of the drugs, therefore, he cannot ease out his responsibility.

The learned counsel, Mr. S. Chakraborty to support his submission relied on (2004) 3 SCC 252 and (2004) 12 SCC 266.

I have perused the complaint petition as pointed out by the petitioner's counsel. On perusal of the complaint petition at this stage, I cannot come to the conclusion that the accused is not at all connected with the case. It is an undisputed fact from the submissions of the learned counsel for the accused/petitioner as well as the respondent's counsel that consignment of the contraband items was booked by the accused. I have also perused my earlier Judgment and Order dated 31.05.2013 passed in Crl. Revn. Petn. (SH) No. 16 of 2012; wherein, I have discussed in details the provisions of section 37 of the NDPS Act. Section 37 empowered the court to satisfy that, the accused is not guilty of the offence or he or she will not commit the offence while on bail. In this case nothing substantial can be placed by the accused counsel to belief that the accused is innocent.

Therefore, I am of the considered view that there is no further scope to consider my Judgment and Order dated 31.05.2013 and I also note that possession is either physical or

mental. It may be mentioned since in this case consignment has been booked by the accused, it cannot be ruled out that he had no conscious possession or mental possession. Also further note that the Judgment relied on by the accused counsel does not fit in the present facts and circumstances of the case. Moreover, it also came into light that trial is proceeding and one of the witnesses has already been examined, therefore, I am unable to consider the bail application. Hence, bail application is hereby rejected and stands disposed of.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
MC(CRP) No. 2 of 2014

07.01.2014

List this matter after vacation as it is not urgent.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C) No. 3 of 2014

07.01.2014

Heard Mr. G.S. Massar, learned Sr. counsel appearing for and on behalf of the petitioners assisted by Mr. J.M. Thangkhiew, learned counsel.

Also heard Mr. K.S. Kynjing, learned Advocate General, Meghalaya assisted by Mr. R. Gurung, learned State counsel and Mr. H.S. Thangkhiew, learned Sr. counsel for the respondents.

Issue notice to show cause as to why the instant petition should not be admitted or any other order or orders should not be passed as found deemed fit and proper.

Since the learned Sr. counsels submitted that the matter is urgent, let this matter be fixed on 14.01.2014 for further orders.

In the meantime, the petitioner's counsel is directed to furnish the copies and annexures to the learned counsel for the respondents in the course of the day.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C) No. 135 of 2013

07.01.2014

List this matter after vacation as prayed for by the learned counsel for the parties Mr. T.T. Diengdoh, learned Sr. counsel as well as Mr. K. Paul, learned counsel.

JUDGE

D. Nary

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
AB No. 159 of 2013

7.01.2014

Heard Mr. AK Agarwal, the learned counsel for the petitioner who submits that, the petitioner/accused namely; **Nilbarth C Marak @ Dingnen Marak** in self-defence shot the victim as he was attacked by a group of people. There is also a counter case. Initially the matter was moved before the learned Additional District Magistrate (J), East Garo Hills, Williamnagar who without considering or perusal nor calling the CD rejected the bail application.

Heard also Mr. ND Chullai, the learned senior counsel assisted by Mr. R Gurung, the learned state counsel who submits that, in this instant case the victim sustained serious injuries and also produced the CD. The learned senior counsel further contended that, the accused person is absconding to evade arrest and in such cases, bail application may not be considered.

After considering the submissions advanced by the learned counsel for the parties, I am of the considered view that it is not a fit case to grant anticipatory bail at this stage. However, the petitioner is at liberty to file fresh bail application before the learned Additional District Magistrate (J), East Garo Hills, Williamnagar who shall in turn call the CD and to pass necessary order after perusal of the CD on basis of merit.

It is also further observed that, the learned Additional District Magistrate (J), East Garo Hills, Williamnagar should not be influenced or carried away by the observations made by this Court but to pass necessary order independently.

With these observations and directions, this instant grant anticipatory bail application is rejected and the matter stands disposed of.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
AB No. 184 of 2013

7.01.2014

Heard Mr. KC Gautam, the learned counsel for the petitioner.

As per record it appears that, no bail application has been placed or moved before the Additional District Magistrate, Williamnagar. Therefore, I am of the view that, first, bail application should have been moved before the learned Additional District Magistrate, Williamnagar and if there is any illegal order passed, then bail application can be easily moved before the Higher Court.

Let the petitioner move the bail application before the learned Additional District Magistrate, Williamnagar within a period of 1(one) week. It is also further directed that within the next 1(one) week, the petitioner should not be arrested or in the event of arrest, he to be released on bail with a sum of Rs. 20,000/- with one surety of the like amount on the following conditions.

i) He shall not interfere with the investigation or tamper with any evidence.

ii) This instant interim order shall remain in force only for a period of 1(one) week.

It is also further observed that, the learned Additional District Magistrate, Williamnagar should not be influenced or carried away by the observations made by this Court but to pass necessary order independently on basis of merit.

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

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
CRP No. 1 of 2014

7.01.2014

Heard Mr. B Bhattacharjee, the learned counsel for the petitioner who submits that, in spite of the order passed by this Court directing both the parties to maintain their respective possessions as on 28.11.13 in CRP No. 43 of 2013. The learned Judge, District Council, Jowai vide order dated 17.12.13 in Misc Case No. 1 of 2013 arising M.C. Appeal No. 2 of 2013 restraining the petitioner to enter his land and directed the Superintendent of Police concerned to conduct an inspection and fixed the report on 20.12.13.

Heard also Mr. K Paul, the learned counsel for the respondent.

After hearing the submissions advanced by the learned counsel, I am of the opinion that before passing any order, examination of the report of the Superintendent of Police is required.

Call for the report of the Superintendent of Police, East Jaintia Hills District.

In the meantime, neither of the parties should be dispossessed from their respective possessions as on 28.11.13.

List this matter on 14.01.14.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
Misc. Case No. 1 of 2014 in
CRP No. 1 of 2014

7.01.2014

Heard Mr. B Bhattacharjee, the learned counsel for the applicant as well as Mr. K Paul, the learned counsel for the respondent.

List this matter on 14.01.14 along with CRP No. 1 of 2014

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
Misc. Caveat Petn. No. 214 of 2013

7.01.2014

Heard Mr. B Bhattacharjee, the learned counsel for the petitioner as well as Mr. K Paul, the learned counsel for the Caveator.

Accordingly, this instant Misc. Caveat Petition stands discharged.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C) No. 1 of 2014

7.01.2014

Heard Mr. GA Dkhar, the learned counsel for the petitioner as well as Mr. ND Chullai, the learned senior counsel assisted by Mr. R Gurung, the learned State counsel.

On perusal of the record it appears that, originally Judgment & Order dated 19.07.06 in Wakf Case No. 1 of 2002 passed by me (i.e. Mr. Justice SR Sen), therefore, I am not inclined to take up the matter.

List this matter before any other bench without me (i.e. Mr. Justice SR Sen) on 27.01.14.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C) No. 2 of 2014

7.01.2014

Heard Mr. AH Hazarika, the learned counsel for the petitioner as well as Mr. R Gurung, the learned State counsel.

The learned State counsel submits that, there is no urgency in this instant case, so the matter may be fixed after winter vacation.

I agree with the submission advanced by the learned State counsel.

List this matter accordingly after winter vacation.

JUDGE

V. Lyndem.

BEFORE
HON'BLE MR. JUSTICE S.R. SEN
WP(C) No. 392 of 2013

7.01.2014

List this matter on 21.01.14 as prayed for by the learned counsel for the parties.

JUDGE

V. Lyndem.