



Serial No.01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No.17/2018

Date of Order: 14.12.2018

Joplangki Dkhar Vs. State of Meghalaya & anr

Coram:

Hon'ble Mr. Justice Mohammad Yaqoob Mir, Chief Justice

Appearance:

For the Petitioner/Appellant(s) : Mr. KC Gautam, Adv

For the Respondent(s) : Mr. S Sen Gupta, Addl.PP

ORAL:

1. Petitioner in connection with Khliehriat P.S. Case No.195 (11) 2018 under Sections 307/392/34,326 IPC has been arrested on 18.11.2018, he had applied for grant of bail on health ground which has been rejected by the Additional District Magistrate (J), East Jaintia Hills District, Khliehriat vide order dated 03.12.2016 wherein, the learned Magistrate has observed that in the interest of investigation, more time as prayed by the I/O to dig out the truth and facts of this instant case has to be allowed.

2. The instant application has now been filed under Section 439 CrPC invoking the power of this Court for grant of bail, objections have been filed.

3. Today, when the matter was taken up for consideration, learned counsel for the petitioner stated that the life of the petitioner is in jeopardy as he is suffering from various ailments. He has undergone major open heart surgery needs regular checkup. Presently he is admitted in hospital, such type of patient requires treatment as well as safe environment.

4. In support of his submission, has placed on record photo copies of the medical prescriptions. Today he has produced the medical status report dated 07.12.2018 issued by the Senior Medical & Health Officer, District Jail, Jowai, same is quoted hereunder:-



“MEDICAL ESTABLISHMENT
DISTRICT JAIL, JOWAI

MEDICAL STATUS REPORT

Name : Shri Sharming Shadap

Age : 52 yrs.

Sex : Male

Status: Undertrial prisoner [UTP]

On clinical examination of Shri Sharming Shadap UTP, he is found to be suffering from Serious Heart Diseases along with High Blood Pressure and Pericardial Effusion and General Ill Health.

The patient had undergone a major open heart surgery (Coronary bypass Surgery) a few months back and is still slowly recuperating from the effect of his surgical operation and he is urgent needs for regular check up and monitoring of his health condition by his supervising doctors of GNRC, Hospital Guwahati.

At present his medical condition is still unstable with Fluctuation Blood Pressure, Tachycardia (irregular heartbeats) and Constant Chest Pain. The patient is weak and suffering from depression and anxiety which can further exacerbate his heart condition.

Base on these criteria, I strongly recommend that the patient Shri Sharming Shadap be urgent allowed to go to further treatment at GNRC Hospital, Guwahati where his surgery was performed otherwise his health may be in jeopardy.

Sd/-

Dated: Jowai

The 7th December, 2018

Senior Medical & Health Officer,
District Jail, Jowai.”

5. The medical status report is self explanatory. Life is precious and is guaranteed under Article 21 of the Constitution. No doubt heinousness of the crime cannot be ignored. However, when the health condition of the alleged accused (petitioner herein) is critical then in that eventuality discretion has to be exercised in a reasonable manner. The medical status report as quoted above, reveals as to what is the condition of the petitioner (accused), further incarceration may have serious effect on his life. The accused can be tried if proved to have committed the offence can be convicted/sentenced but in case accused losses life, who can be tried then convicted or acquitted.

6. Therefore, on exceptional medical ground, the petitioner deserves to be released which is not opposed by learned Addl.PP. Therefore, the application is allowed. The petitioner (accused) be released on furnishing surety bond to the tune of Rs.50,000/- to the satisfaction of



Joint Registrar (J) and personal bond of the like amount to the satisfaction of Superintendent of Jail concerned or investigating officer. The petitioner will remain available to the investigating officer as and when required for investigation purposes. Further, he will not in any manner directly or indirectly impede the investigation.

7. Application disposed of as above.

(Mohammad Yaqoob Mir)
Chief Justice

Meghalaya
14.12.2018
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