

HIGH COURT OF SIKKIM
Record of proceedings through Video Conferencing

BAIL APPLN.No.12 of 2020

GANESH SHARMA *Alias* GELAL

.... APPLICANT

VERSUS

STATE OF SIKKIM

.... RESPONDENT

Date: 14.12.2020

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HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.

For Applicant : Mr. Rahul Rathi, Advocate.

For Respondent : Mr. Yadev Sharma, Additional Public Prosecutor.
Mr. Hissey Gyaltzen, Assistant Public Prosecutor.

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On 04.12.2020 notice was issued upon the respondent on the bail application filed by the applicant. The learned Additional Public Prosecutor desired to file objection to the application. Accordingly, the matter was listed today for hearing. During the course of hearing it was noticed that in the petition for bail it had been mentioned that the next date was fixed at 16.03.2021 for examination of prosecution witnesses by the Trial Court. However, there was no mention of the fact that the charges were framed. The application was filed along with a copy of First Information Report (FIR), property seizure memo, charge sheet, certified copy of the order dated 28.08.2020 passed in Criminal Misc Case (SADA) (Bail) No. 63 of 2020 passed by the learned Special Judge, copy of arrest memo, copy of statement of two seizure witnesses only.

The respondent filed its reply on 10.12.2020 making various submissions but without any material. When it was noticed by this court that charges may have been framed against the applicant and asked the learned counsel about it, it was submitted that he had

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failed to mention the fact inadvertently and sought to furnish a copy of the order after some time. Matter was therefore, listed at 2 p.m. It transpires that neither the applicant nor the State had thought it fit to file the complete records filed along with charge sheet.

Considering the fact that the learned Special Judge had infact framed charges on 14.10.2020 against the applicant finding sufficient materials to frame charges against the accused persons including the applicant under Rule 17(1) of the Sikkim Anti Drugs Rules, 2007 (SADA Rules, 2007) and Section 9(1)(c) of the Sikkim Anti Drugs Act, 2006 (SADA, 2006) read with Section 34 of the Indian Penal Code, 1860 (IPC), it is deemed appropriate to consider the other materials which are before the learned Special Judge in view of Section 18(1) (ii) of SADA 2006. The learned Additional Public Prosecutor shall file the entire charge sheet along with all the materials within a period of two weeks. As the winter vacation commences from tomorrow list for hearing on 25.01.2021 before the vacation court.

Judge