



Serial No. 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 38 of 2023

Date of Decision: 29.09.2023

Shri. Lalrintluanga Sailo

Vs.

State of Meghalaya & Anr.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

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

For the Respondent(s) : Mrs. N.G. Shylla, Sr. GA with
Mr. A.H. Kharwanlang, Addl. Sr. GA

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT (ORAL)

1. Heard Mr. K.Ch. Gautam, learned counsel for the petitioner. Also heard Mr. A.H. Kharwanlang, learned Addl. Sr. GA appearing for the State respondents.

2. The medical report in respect of the accused Smti. X has been produced before this Court and on perusal of the same it appears that the history of the treatment given to the accused person has been detailed. There is no dispute that the said accused person is suffering from HIV positive and is undergoing treatment for the same. Though in layman's term it can be



understood that the treatment for HIV patient is not exactly treatment per se but prevention of the patient contracting any ailments on his/her person which would aggravate the situation as far as the patient is concerned for which special treatment is required.

3. There is no doubt that the District Prison and Correctional Home authorities are doing their best to ensure that the patient is being looked after even while in custody. However, it is also equally valid to say that the person who is undergoing such procedure is not only physically depressed but also mentally depressed.

4. It is also trite law that in cases involving narcotic drugs and psychotropic substances especially involving seizure of commercial quantity of such contraband, the rigours of Section 37 are to be complied with and are also applicable to the case of the accused person herein. On the other hand, there are also provisions even for this Court to take refuge to the provision of Article 21 to say that life and liberty of a person is equally important. As the case referred to by the learned counsel for the petitioner, that is, the case of *Bhawani Singh v. State of Rajasthan: 2022 SCC Online SC 1991* has demonstrated this aspect of the matter wherein the Hon'ble Supreme Court in a case for application of bail taking note of the fact that the accused person involved therein is suffering from HIV, had, on this premise granted bail.

5. As observed herein above, the accused person is indeed suffering from HIV irrespective of the fact that the treatment given by the State may be adequate or not as the case may be, this Court is of the considered opinion that special consideration be given to the accused to get proper treatment or to recuperate from her suffering in an environment congenial to her. Needless to say, grant of bail is not the end of the matter, it is only to ensure that the



accused shall not abscond. If the accused person would cooperate with the investigation and the trial, the purpose of the criminal proceedings would be served.

6. Upon these considerations, the prayer of the petitioner herein is allowed. The accused person, Smti. X is hereby directed to be enlarged on bail on the following conditions:-

- i. That she shall not abscond or tamper with the evidence or witnesses;
- ii. That she shall cooperate with the process of the court concerned.
- iii. That she shall not leave the jurisdiction of the State of Meghalaya without prior permission from the court concerned;
- iv. That she shall furnish a personal bond of ₹ 1,00,000/- (Rupees one lakh) only with one surety of like amount to the satisfaction of the court concerned.

7. Violation of any of the abovementioned conditions would allow the prosecution to take necessary steps for cancellation of bail.

8. With the above, this petition is disposed of. No costs.

Judge

Meghalaya
29.09.2023
"Tiprilynti-PS"