
(1967) 04 GAU CK 0001
In the Gauhati High Court

Ngangom Iboton Singh and Another

APPELLANT

Vs

Union Territory of Manipur

RESPONDENT

Date of Decision : 01-04-1967

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 307, 398

Citation : (1969) CriLJ 128

Hon'ble Judges : C. Jagannadhacharyulu, J.C.

Bench : Single Bench

Judgement

C. Jagannadhacharyulu, J.C.

1. This is an application filed by the petitioners u/s 498 Criminal Procedure Code to release them on bail.

2. The case of the prosecution is that one Thoppa Singh of Sekta Village lodged a complaint in Lamlai Police Station in Manipur District alleging that at about 9 P.M. on 27.8.1966 the petitioners and some more persons armed with firearms, daes, lathis and other deadly weapons entered into his house to commit murder, dacoity and other offences, that he raised alarm, that on hearing the alarm the villagers rushed to the spot and surrounded the culprits and that, having no passage for their escape, the culprits opened fire continuously upon the villagers resulting in the death of one villager by name Salam Komol Singh and injuries to 3 other villagers.

It is also the case of the prosecution that on the following day one Pakchao Singh, one of the dacoits was found lying dead, that the first petitioner Ngangom Iboton Singh was arrested on 18-9-1966 and that the second petitioner Sagosem Chaoba Singh was arrested on 30-8-1966 when a stengun and 2 live bullets were also seized from his house and that on the day next after the occurrence 10 empty cases of 9 M.M. bullets were seized from the scene of offence. The case is said to be under investigation in F.I.R. case 98(8)66 under Sections 302, 307 and 398 Indian Penal Code a the seized fire-arms amunition etc. were sent to the

Arms Expert for examination.

3. 4 more accused were also impleaded in the case. Out of them, 3 were released on bail by the Magistrate First Class, Imphal. One was released on bail by the Sessions Judge, Manipur, by his order dated 8.3.1967 in his Criminal Misc. Case 75/1967. The Learned Sessions Judge refused to release the petitioners on bail. So, the petitioners filed the present petition for bail.

4. The Learned Sessions Judge states in his order that the first petitioner's name was mentioned in the F.I.R., that his name was also mentioned by 3 injured persons and that though he was arrested about one month after the occurrence, there are no grounds for releasing him on bail. But, the Learned Sessions Judge released another person whose name was also mentioned in the F.I.R. and whose name was also mentioned by some of the injured persons. So, the case of the first petitioner stands on the same footing as the case of other accused persons, who were released on bail.

5. So far as the second petitioner is concerned, besides the fact that his name was mentioned in the F.I.R. there is prima facie incriminating material against him. A sten-gun and 2 live bullets were seized from his possession. So, there is reasonable ground for believing that he was one of the participants in the daring dacoity and murder committed in the night of 27.8.1966. As such, he cannot be released on bail.

6. The Learned Counsel of the petitioners urged vehemently that both the petitioners are entitled to be released on bail and relied on a number of decisions which lay down the principles which should guide the Court in dealing with an application for bail. One of the principles is that generally it is the rule to allow bail, rather than to refuse bail and bail ought not to be held as punishment.

Vide Nagendra Nath Chakrabarthi Vs. King-Emperor, , and Ram Chandra and Another Vs. The State, In Sant Ram and Others Vs. State, it was held that the law presumes an accused person to be innocent till his guilt is proved and that he should be allowed opportunity to look after his own case, unless the circumstances are such that he should not be released on bail.

In Ram Chand v. Emperor 30 CrILJ 1129 : AIR 1929 Lah 284 , Kripa Shankar Vs. Emperor, Champalal v. State AIR 1952 MP 189 and The State Vs. Shantilal and Others, it was held that the High Court can exercise its powers u/s 498, Criminal Procedure Code uncontrolled by the restrictions mentioned in Section 497 Criminal Procedure Code. But, it was also held that the High Court should exercise its powers u/s 498 Criminal Procedure Code judicially and not arbitrarily. There are some rulings which held that the fact that an offence is a serious one does not afford a sufficient ground to refuse bail. Vide AIR 1925 489 (Oudh) and Fazal Nawaz Jung and Another Vs. State of Hyderabad,

It was held in some others that the principles to guide the Court is the probability of the accused appearing to take his trial and not his supposed guilt or

innocence. Vide Public Prosecutor Vs. M. Sanyasayya Naidu and Others, and Rao Harnarain Singh Sheoji Singh and Others Vs. The State, In Paras Ram Vs. The State, it was held that there is no hard and fast rule as to when bail should be granted and that though the discretion of the High Court is unfettered, it must be exercised judicially.

7. In the light of the various principles enunciated by the decisions it should be noted that so far as the first petitioner is concerned, there is only the fact that his name was mentioned by the complainant and the three injured persons. But, some other accused who were similarly mentioned by the complainant were released on bail. So, there is no reason for discriminating him. He is entitled to be released on bail subject to the condition that he should execute a bond for a sum of Rs. 3,000/- with two sureties for a like sum to the satisfaction of the Munsiff-Magistrate (I), Manipur. He should not tamper with any witness. If he violates any condition, then the bail will be cancelled. So far as the second petitioner is concerned, there is reasonable ground for believing that he is guilty of the offence punishable with death. So, he cannot be released on bail. It is said that he is a student and that his studies will be spoiled if he is to continue in the Jail. This cannot be helped in view of the prima facie evidence against him.

8. In the result, the first petitioner viz., Ngangom Iboton Singh is enlarged on bail subject to the conditions mentioned above. Bail is refused to the second petitioner viz., Sagolsem Chaoba Singh.