



Serial No. 06
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.A. No. 34 of 2024

Date of Decision: 17.09.2024

Shri. Wallam Jingsuk Barim,
S/o Shri. Tonly Marwein
R/o Nongkya village, Umsning
PO/PS Umsning, Ri-Bhoi
District, Meghalaya

:::: **Appellant**

-Vs-

1. The Union of India
Represented by the Secretary,
Ministry of Home Affairs New
Delhi.
2. National Investigating
Agency Ministry of Home
Affairs, New Delhi.
3. The Investigating Officer
(NIA), in NIA Case No. RC-
07/2022/NIA-DLI

:::: **Respondents**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. P. Yobin, Adv.
For the Respondent(s) : Dr. N. Mozika, DSGI. with
Mr. K.Ch. Gautam, Adv.
Ms. F. Langbnang, Adv.
Ms. R. Fancon, Adv.

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



ii) Whether approved for publication
in press:

Yes/No

Per W. Diengdoh, (J):

ORDER

1. On 30.01.2022, a bomb blast occurred at Police Bazaar, Shillong resulting in damage to entrance steps, walls, glass panes and signage of one store owned by Shri Larsing Lalhming Dey Sawain, Managing Director, Centre Point Group Enterprise, Shillong.

2. On an FIR filed by the complainant, Shri Larsing Lalhming Dey Sawain, police registered a police case bearing Sadar P.S Case No. 27 (01) 2022, under Section 427 IPC read with Section 5 of the Explosive Substance Act, 1908. In view of the nature of the incident and the parties involved, the National Investigation Agency was directed to take over the investigation of the case and the case was re-registered as NIA Case No. RC-07/2022/NIA-DLI under Section 120B/435/436 IPC read with Section 6 of the Explosive Substance Act, 1908 and Section 10(b)(ii) and 13(1) & 13(2) of the UA(P) Act, 1967.

3. In course of investigation, 9(nine) accused persons were apprehended including 3(three) Children in Conflict with Law(CCL) and thereafter, a charge sheet was filed on 29.07.2022. The case proceeding



in the Court of the learned Special Judge (NIA), Shillong is at the stage of recording of evidence of the prosecution witnesses.

4. Heard Mr. P. Yobin, learned counsel for the appellant, who has submitted that the appellant was implicated as an accused in the said Spl (NIA) Case No. 1 of 2022 and according to the charge sheet, he was charged under Section 120B IPC read with Section 6 of the Explosive Substance Act, 1908. Since his arrest, he is in custody for about 2 years and 4 months or so.

5. The learned counsel has further submitted that the chain of events as far as the appellant is concerned, is that he was requested by David Nongkseh (A-1) to get him some explosive materials after which he contacted his friend Dalios Malieh (A-4) to procure the same. Dalios Malieh who has some gelatine sticks with him in turn procured the fuse wires and detonators from one Tynghiangborlang Rani (A-5).

6. Again, the learned counsel has submitted that Dalios Malieh and Tynghainborlang Rani were also arrested and named in the charge sheet as A-4 and A-5 respectively, and the charges against them was also the same as that of the appellant, that is, under Section 120B IPC read with Section 6 of the Explosive Substance Act, 1908.



7. The appellant has filed as many as five bail applications seeking enlargement on bail, however, the learned Trial Court has rejected all such applications. The 5th bail application was rejected vide the impugned order dated 30.05.2024, the main reason cited for rejection of the prayer for bail is that the appellant (A-3) is directly connected with the main accused person (A-1) when he had procured the explosive materials and handed over the same to A-1, which according to the learned counsel cannot be a ground for further incarceration of the appellant/A-3 when the chain also includes the involvement of A-4 and A-5 respectively, who were since enlarged on bail.

8. The learned counsel has again submitted that the appellant is a young person studying in college and having been in custody for about two and a half year, also coming from a poor family, his further incarceration would hamper his future and, if enlarged on bail, he will abide by any conditions to be imposed by this Court.

9. Dr. N. Mozika, learned DSGI appearing for the respondents has refuted the argument of the learned counsel for the appellant by pointing out that the materials on record and the evidence of the relevant witnesses has clearly proved that the case against the appellant herein is very serious, wherein the act by itself has threatened the security of the



land, the involvement of the appellant being very apparent, he cannot be enlarged on bail at this stage. However, if this Court is inclined to allow the appellant to go on bail, then stringent conditions may be imposed, further submits the learned DGSI.

10. We have heard the learned counsels for the parties and have also perused the materials on record, including the impugned order in question.

11. As has been submitted, 64(sixty-four) prosecution witnesses have been cited out of which 15(fifteen) of them have been examined in court. Though the prosecution may not summon all of the remaining witnesses, however a substantial number of witnesses are yet to be called to court for recording of their deposition. Though the ground of delay have not been stressed upon by the appellant, the same will still be taken into consideration as it is observed that only 15(fifteen) out of the 64(sixty-four) listed witnesses have been examined so far, the trial may continue for a slightly longer duration under such circumstances and speedy trial has always been the oft repeated refrain when it comes to proceedings in a criminal trial.

12. Though this Court would not dwell on the merits of the case before the Trial Court at this juncture, but would only noticed that the



main thrust of the appellant's argument is on the issue of parity, inasmuch as, the fact that two accused persons, A-4 and A-5 who were charged under the same sections of law as those of the appellant/A-3 have since been released on bail, there cannot be any justification for the appellant/A-3 not to similarly extended the same benefit, considering the fact that all the three accused persons in question stands on the same footing as far as the accusation against them is concerned.

13. It is well settled that the law of parity when applied to a situation concerning the applicability of principles of bail jurisprudence, the primary principle being "*Bail and not Jail*", meaning thereby that the liberty of a citizen is sacrosanct and has to be safeguarded, though within the confines and limit of law, where a co-accused has been enlarged on bail under similar sets of circumstances, as is the case herein, then failure to apply the principle to the benefit of the appellant in this case will only be seen as a discriminatory action. The learned Special Judge in making observations that the appellant's prayer for grant of bail based on the ground of parity cannot be accepted as he was the one who has directly supplied the explosive to A-1, is not well founded as only during the trial will the complicity and role played by the individual accused persons be revealed.



14. Under such circumstances, we are of the considered opinion that the appellant has made out a case in this appeal to upset the impugned order dated 30.05.2024 which is hereby done so.

15. The appellant/A-3 is directed to be released on bail, if not wanted in other case(s) on his subscribing to comply with the following conditions:

- i) That he will not abscond or tamper with the witnesses;
- ii) That he will not leave the jurisdiction of this State without the prior permission of the Trial Court;
- iii) That he shall appear in court as and when required; and
- iv) That he shall bind himself on a personal bond of ₹ 50,000/- (Rupees fifty thousand) with two sureties of like amount to the satisfaction of the Trial Court.

16. With the above, this appeal is hereby disposed of. No costs.

(B. Bhattacharjee)
Judge

(W. Diengdoh)
Judge