

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

BAIL APPLICATION NO. 1 OF 2024

Nameirakpam Kiran Meitei, aged about 29 years, S/o
Nameirakpam Samu Meitei of Nungbrang Mayai
Leikai, PO & PS Andro, Thoubal District, Manipur.

.... Petitioner

- Versus -

The Central Bureau of Investigation represented by
the Investigating Officer (IO) of the CBI Case No. RC
05620230012/CBI/ SCB/Kolkata Ref: FIR No. 110(06)
2023 NSK-PS u/s 153A/ 398/ 427/ 436/ 448/ 302/
354/ 364/ 326/ 376/ 34 UIPC & 25(1-C)A, Act, added
u/s 376-D IPC & Section 3(1)(d), 3(1)(e), 3(1)(g),
3(1)(w(i)), 3(1)(z), 3(2)(iii), 3(2)(iv), 3(2)(v) of
SC&ST (PoA), Act, 1989 and its corresponding ZERO
(91)(5) 2023 SKL-PS U/s 153A/ 398/ 427/ 436/ 448/
302/ 354/ 364/ 326/ 376/ 34 IPC & 25(1-C)A, Act,
Central Bureau of Investigation, Office of the Head of
Branch, CBI, ACB Imphal Branch, Near D.C. Office,
West District Imphal, Post Office – Lamphelpat,
Imphal - 795004

.... Respondent

B E F O R E
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU

For the petitioner : Mr. Juno Rahman, Advocate
For the respondent : Mr. W. Darakishwor, Senior PCCG
Date of hearing : 16.08.2024
Date of order : **26.09.2024**

JUDGEMENT & ORDER
(CAV)

[1] Heard Mr. Juno Rahman, learned counsel appearing for the petitioner and Mr. W. Darakishwor, learned senior PCCG appearing for the respondent at length.

[2] The present Bail Application has been filed under section 428 and Section 437 read with section 439 of the Code of Criminal Procedure, 1973 praying inter-alia to release the petitioner on bail pending trial of the above referred CBI Case No. RC 0562023S00012/CBI/SCB/Kolkata U/s 120B, 147, 148,149, 153A, 302, 354, 354-B, 34, 376(2)(g) and 376-D IPC, Section 3(1)d, 3(1)e, 3(1)g, 3(1)w(i), 3(2)v of SC & ST (PoA), Act, 1989 with the following prayer;

"(ii) to release the humble Petitioner on bail in connection with FIR No. 110(06)2023 NSK-PS u/s 153A/ 398/ 427/ 436/ 448/ 302/ 354/ 364/ 326/ 376/ 34 IPC & 25(1-C)A, Act, added u/s 376-D IPC & Section 3(1)(d), 3(1)(e), 3(1)(g), 3(1)(w(i)), 3(1)(z), 3(2)(iii), 3(2)(iv), 3(2)(v) of SC&ST (PoA), Act, 1989 in the facts and circumstances of the present Bail Application.

(iii) to pass any order/ direction as the Hon'ble Court may deem fit in the facts and circumstances of the present Bail Application"

[3] The learned counsel for the petitioner submits that the petitioner is a peace loving person who is earning his livelihood by driving earth excavator (JCB) thereby feeding the hungry mouth of his elderly parents, wife and 3 (three) children including a minor daughter.

He further submits that the petitioner is residing at a village which is near a kuki village and is at great peril in consideration with the present scenario. In the second week of May, 2023 one Suranjoy, a friend of the petitioner had shared a video to the petitioner of an incident which has become viral recently of crime committed against 2 (two) kuki women. On 24th July, 2023, the petitioner was called by the Superintendent of Police, Thoubal for some consultation and discussion, however upon reaching the office of the Superintendent of Police, Thoubal, the petitioner was arrested in connection with FIR No. 110(06)2023 NSK PS U/s 153A/ 398/ 427/ 436/ 448/ 302/ 354/ 364/ 326/ 376/ 34 IPC. Since then, the petitioner is in judicial custody. He further submits that the petitioner has no connection nor committed any of the crimes/offences as mentioned in the above referred FIR but the only fault of the petitioner is that he had received the video from one Suranjoy however he has neither shown nor shared the said video to any other individual(s).

[4] The learned counsel for the petitioner further submits that the Commissioner (Home), Government of Manipur issued Notification No. 12/1(4)/2023-H(CBI) dated 26th July, 2023 whereby in pursuant of the provisions of Section 6 of the Delhi Special Police Establishment Act, 1946, consent was given to the extension of powers and jurisdiction of the members of the Delhi Special Police Establishment in the whole of the State of Manipur for carrying out investigation of FIR

No. 110(06)2023 NSK-PS u/s 153A/ 398/ 427/ 436/ 448/ 302/ 354/ 364/ 326/ 376/ 34 IPC & 25(1 - C)A. Act, added u/s 376D-IPC & Section 3(1)(d), 3(1)(e) 3(1)(g) 3(1)(w(i)) 3(1)(z) 3(2)(iii) 3(2)(iv) 3(2)(v) of SC&ST (PoA), Act, 1989 and its corresponding ZERO (91)(5)2023 SKL-PS U/s 153A/ 398/ 427/ 436/ 448/ 302/ 354/ 364/ 326/ 376/ 34 IPC & 25(1-C) A. Act. And the Under Secretary to the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), Government of India, New Delhi also issued Notification No. 228/47/2023-AVD-II dated 28th July, 2023 thereby extending the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole state of Manipur for investigation of FIR No. 110(06)2023 NSK-PS u/s 153A/ 398/ 427/ 436/ 448/302/ 354/ 364/ 326/ 376/ 34 IPC & 25(1-C)A. Act, added u/s 376-D IPC & Section 3(1)(d), 3(1)(e), 3(1)(g), 3(1)(w(i)), 3(1)(z), 3(2)(iii), 3(2)(iv), 3(2)(v) of SC&ST (PoA), Act, 1989 and its corresponding ZERO (91)(5)2023 SKL-PS U/s 153A/ 398/ 427/ 436/ 448/ 302/ 354/ 364/ 326/ 376/ 34 IPC & 25(1-C) A. Act and any attempt, abetment and/ or conspiracy in relation to or in connection with such offence(s) and/ or for any other offence committed in the course of the same transaction or arising out of the same facts.

[5] The learned counsel for the petitioner further submits that the police have falsely implicated the petitioner in the above referred FIR and is not involved in any criminal activities till date. He further

submits that the petitioner had filed Cril. Misc. (B) Case No. 271 of 2023 before the Court of Sessions Judge, Thoubal for granting bail in connection with the above referred FIR however, the same was transferred to the Court of Special Judge (SC&ST) PoA, Thoubal and the bail application of the petitioner was heard along with the other individuals who were arrested in connection with the said incident of parading naked of 2(two) ladies being FIR No. ZERO (91)(5)2023 SKL-PS U/s 153A/ 398/ 427/ 436/ 448/ 302/ 354/ 364/ 326/ 376/ 34 IPC & 25(1-C) A. Act. He further submits that even though the petitioner has not been booked/ charged under any of the provision of Schedule Cast and Schedule Tribe (Prevention of Atrocities) Act, 1989, the Court of Special Judge (SC&ST) PoA, Thoubal heard the bail application of the petitioner's along with other bail application which were booked/ charged under the SC & ST (PoA) Act, 1989.

[6] Accordingly to the learned counsel for the petitioner, the I/O for the CBI had concealed the whole fact that the petitioner was not booked/ charge under the SC&ST (PoA), Act, 1989 and submitted their "Petition for further extension of Judicial Custody of the accused persons for 15 days" on 31.08.2023 for all the persons arrested under FIR No. 110(06)2023 NSK-PS who were booked/ charged under the SC&ST Act, even though the petitioner has been arrested under the provisions of the Indian Penal Code only and not under the SC&ST Act, Arms Act and IT Act. He further submits that during the relevant period

of time, internet including mobile as well as broadband was suspended in the state of Manipur and thus, the alleged allegation of the I/O of CBI that the petitioner had shared the said video in social media is totally baseless, concocted and has no legs to stand.

[7] The learned counsel for the petitioner further submits that on 04.09.2023 after hearing both the parties, the Court of Special Judge (SC&ST) PoA, Thoubal passed the impugned Common order thereby dismissing the bail application of the petitioner on the ground that all the accused including the petitioner has a possibility of absconding from the jurisdiction of the court. He further contended that while passing the impugned order, the Special Judge (SC&ST) PoA, Thoubal treated the petitioner as if he was involved in the said crime and dismissed/rejected the bail application and he further submits that in the bail objection report dated 31.08.2023 of the I/O of the CBI nowhere is there any allegation that the petitioner was involved in the said crime nor was he even present at the scene of crime.

[8] The learned counsel for the petitioner further submits that the Hon'ble Supreme Court of India in a catena of judgments have held that although bail is an exception of serious offences, but it is also true that a person cannot be detained where there is no evidence connecting him with the crime or if the circumstances are such which raise a doubt of his involvement in the crime. Nowhere in the report dated 31.08.2023 of the I.O. of CBI is there any statement that the

petitioner was involved in the said offence and that the only allegation against the petitioner is that he had received the video of the said crime over his mobile phone.

[9] The learned counsel for the petitioner further submits that the alleged allegation of presence of accused in the above referred FIR at the spot during the relevant period of time as mentioned in the Report of I/O of CBI dated 31-08-2023 is quite vague and cannot be treated as a ground for denying bail to the humble petitioner as the alleged allegation is based on the analysis of the CDRs and Tower Dump. He further submits that the crime scene is at a distance of about 5-6 kms from the residence of the humble petitioner and thus it is quite likely that both the locations are covered by the same Mobile Tower and thus the analysis of CDRs and Tower Dump only indicates that the humble petitioner was at a location covered by the mobile network tower of the crime scene and thus not necessarily mean that the petitioner was present at the spot of the crime. He further submits that the grant or refusal to grant bail lies within the discretion of the Court, however right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purpose of bail in a criminal case are to relieve the accused of imprisonment, to relieve the state of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit

to the jurisdiction of the court and be in attendance thereon whenever his presence is required.

[10] The learned counsel for the petitioner further submits that time and again the Hon'ble Supreme Court is of the foremost view that where the court is of the considered view that the accused has joined investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided. A great ignominy, humiliation and disgrace is attached to the arrest. Arrest leads to many serious consequences not only for the accused but for the entire family and at times for the entire community. Also submitted that the name of the petitioner does not appear in the FIR No. 110(06)2023 NSK-PS u/s 153A/ 398/ 427/ 436/ 448/ 302/ 354/ 364/ 326/ 376/ 34 IPC & 25(1-C)A. Act, added u/s 376-D IPC & Section 3(1)(d), 3(1)(e), 3(1)(g), 3(1)(w(i)), 3(1)(z), 3(2)(iii), 3(2)(iv), 3(2)(v) of SC&ST (POA), Act, 1989.

[11] The learned counsel for the petitioner further submits that the petitioner had already approached the Court of Special Judge, CBI, Kamrup for granting bail in connection with CBI Case No. RC 0562023500012/ CBI/SCB/Kolkata U/s 120B, 147, 148, 149, 153A, 302, 354, 354-B, 34, 376(2)(g) and 376-D IPC, Section 3(1)d, 3(1)e, 3(1)g, 3(1)w(i) & 3(2)v of SC & ST (PoA) Act, 1989 however the same was rejected vide order dated 04-01-2024. The relevant portion of the order dated 04-01-2024 reads as under:

"A perusal of the charge sheet shows that the investigation has revealed that the accused applicant along with A-3, A-4 and A-5 were identified by the victims as they were in the mob and involved in the naked parading and sexual and physical assault of the victims and the murder of S. Vaiphei and N. Vaiphei.

I have perused the CD and the having regards to the incriminating materials and the heinous nature of the alleged offences, as well as the current volatile situation obtaining in the state of Manipur and the public impact, the prayer for bail stands rejected at this stage. Instant Misc. Case stands disposed of. Return back the CD."

He further submits that the Learned CBI Court, Kamrup has failed to appreciate the fact that the petitioner had filed a bail application and the trial of the case is yet to commence however, the Learned CBI Court, Kamrup have a premeditated mind that the petitioner is guilty of the offence even before commencement of trial. Also submitted that the Hon'ble Supreme Court of India in a catena of judgments have held that an accused is to be treated as innocent until proven guilty.

[12] The learned counsel for the petitioner submits that the CBI in their reply affidavit filed before the Learned CBI Court, Kamrup have stated at sub-para 6 of para 21 that *further investigation of the case is in progress to ascertain the role of the other accused persons in the commission of the heinous crime of rape of 02 victims...* He further submits that when the Charge-sheet has already been filed, the question of further investigation does not arise at all. However, the CBI has stated that further investigation is required even after filing of charge sheet in the present case. The only reason for rejecting the bail

application filed by the petitioner before the Learned Court of CBI, Kamrup as provided by the CBI is that *there is every possibility of tampering with evidence and influencing the witness, if the accused is enlarged on bail.* Here, he further mentioned that the only piece of evidence against the petitioner is his mobile phone which has already been seized by the police since day one. Further, the victims are located at a secured location which is known only to the CBI and thus the question of tampering the evidence and influencing the witness does not arise at all. Furthermore, the Learned CBI Court, Kamrup is fixed on the question as to how the petitioner had received the video from one Suranjoy. He further mentioned that receiving the video was not the issue in the present case but the further forwarding of the videos in the internet and other social media websites.

[13] Learned Sr. PCCG submitted affidavit in opposition on behalf of the respondent narrating the prosecution story that the case was registered on the basis of a written complaint of Mr. Thangboi Vaiphei, Chief of Village-B Phainom against unknown miscreants alleging physical assault & gang-rape of women victims, murder of father and brother of one of the women victim and other offences took place on 04.05.2023. On the basis of the aforesaid complaint, on 18.05.2023, FIR bearing No. ZERO (91)(5)2023 was registered at Saikul-PS U/s 153A/ 398/ 427/ 436/ 448/ 302/ 354/ 364/ 326/ 376/ 34 IPC & 25(1-C) Arms Act, thereafter, the case was transferred to

Nongpok Sekmai PS, Thoubal District, Manipur and re-registered as FIR No. 110(06)2023 NSK-PS dated 21.06.2023. The investigation of local police surfaced active roles of accused persons namely (i) Huirem Herodash Meitei, (ii) Arun Khundongbam, (iii) Ningombam Tomba Singh and they were taken into police remand till 31.07.2023.

[14] Learned Sr. PCCG further submitted that the investigation of the case revealed that Yumlembam Jiban Singh was directly involved in the incident and he has recorded the alleged video clip that depicts the assault and parading of the victims. Subsequently, he shared the video clip with CCL Yumlembam Nungshithoi Meitei & others, which ultimately led to its widespread dissemination on social media. Yumlembam Jiban Singh was arrested by the Local Police on July 20, 2023 and taken into police remand till 31.07.2023. It also surfaced that CCL Yumlembam Nungshithoi Meitei, who received the aforementioned video clip from Yumlembam Jiban Singh. Following this, CCL shared the video clip with Pukhrihongbam Suranjoy Meitei. As a result of these actions, CCL was apprehended by the Thoubal Police on July 21, 2023. Subsequently, CCL was presented before the Principal Magistrate of the Juvenile Justice Board in Thoubal and was subsequently transferred to Nirmal Foundation in Kairong, Imphal East for safe custody. It is also surfaced that Pukhrihongbam Suranjoy Meitei received the alleged video clip from CCL Yumlembam Nungshithoi Meitei, proceeded to share it with Nameirakpam Kiran Meitei and four other individuals.

Consequently, this sharing of the video led to its widespread dissemination on social media platforms. Pukhrihongbam Suranjoy Meitei was arrested by the Thoubal Police on July 22, 2023 and taken into police remand till 01.08.2023. The accused Nameirakpam Kiran Meitei, received the video clip from Pukhrihongbam Suranjoy Meitei. Subsequently, Nameirakpam Kiran Meitei shared the video clip with others, resulting in the video's eventual viral spread on social media platforms. Based on these findings, Nameirakpam Kiran Meitei was arrested by the Manipur police on July 24, 2023 and he was taken into police remand till 01.08.2023 and produced before the Ld. Court on 01.08.2023, and the Court extended the judicial custody of accused persons including Nameirakpam Kiran Meitei from time to time. Since then the accused/petitioner is in Judicial custody.

[15] Learned Sr. PCCG further submitted that on 04.09.2023 the Ld. Court of Special Judge (SC & ST, PoA), Thoubal rejected the bail petition of the accused including Nameirakpam Kiran Meitei. Thereafter, on 13.09.2023 in the light of order dated 25.08.2023 of the Hon'ble Supreme Court of India in Special Leave Petition (Civil) Diary no. 19206/2023 and to subsequent notification dated 31.08.2023 of the Hon'ble High Court, Guwahati, the Ld. Court of Special Judge (SC & ST, PoA), Thoubal transmitted the Original Case record to the Ld. Special Judge, CBI & NIA, Assam (District & Session Judge, Kamrup (Metro), Guwahati, Assam. Thereafter, the arrested accused were produced

before the Ld. Special Judge, CBI & NIA, Assam and the Ld. Court vide order dated 14.09.2023 further extended the Judicial Custody of accused persons including Nameirakpam Kiran Meitei and fixed on 26.09.2023. The arrested accused/CCL including Nameirakpam Kiran Meitei were produced before the Ld. Special Judge, CBI & NIA, Assam on 26.09.2023 and the Ld. Court further extended the Judicial Custody of accused persons including Nameirakpam Kiran Meitei and fixed on 10.10.2023. On 16.10.2023, CBI filed chargesheet against the accused petitioner along with other Co-accused.

[16] Learned Sr. PCCG further submitted that on the basis of available evidence, chargesheet was filed against the accused persons namely Huiem Herodash Meitei (A-1), Arun Kungongbam (A-2), Ningombam Tomba Singh (A-3) Yumlembam Jiban Singh (A-4), Pukhrihongbam Suronjoy Meitei (A-5) Nameirakpam Kiran Meitei (A-6) and final report against CCL u/s 120-B, 147, 148, 149, 153A, 302, 354, 354-B, 34, 376(2)(g) and 376-D IPC r/w Section 3(1)d, 3(1)e, 3(1)g, 3(1)w(i) & 3(2)v of SC & ST (Prevention of Atrocities) Act, 1989 and substantive offences thereof keeping further investigation open u/s 173 (8) Cr.P.C. He further submits that, the Bail application filed by the petitioner before the Hon'ble High Court of Manipur is lacking in jurisdiction and not maintainable in the light of the order dated 25.08.2023 of the Hon'ble Supreme Court of India in Special Leave

Petition (Civil) Diary No. 19206/2023 and subsequent notification dated 31.08.2023 of the Hon'ble High Court of Guwahati.

[17] Learned counsel for the petitioner relied upon the following judgment;

- (i) Tahir Hussain Vs State - [High Court of Delhi]
 - (a) Bail Appln. No. 3551/2020
 - (b) Bail Appln. No. 2437/2021
 - (c) Bail Appln. No. 2440/2021
 - (d) Bail Appln. No. 2752/2021
 - (e) Bail Appln. No. 2807/2021
- (ii) Misc Case (CBI) No. 8/2024 (arising out of FIR No. RC0562023S0012, CBI, SCB, Kolkata) – [Special Judge, CBI, Assam, Guwahati]

[18] After the Hon'ble Supreme Court's order dated 25.08.2023 passed in Special Leave Petition (Civil) Diary No. 19206/2023 and subsequent notification dated 31.08.2023 of the Hon'ble High Court, Guwahati and all the connected case records from the file of the Ld. Spl. Judge, SC/ST, (PoA), Thoubal to the Ld. CBI and NIA, Assam, (District & Sessions Judge, Kamrup) (Metro, Guwahati, Assam. Thereafter, the arrested accused persons were produced before the Ld. Court and the custody of the present petition with other accused were extended from time to time. Further, it is admitted position of the fact that the petitioner filed/approached the Court of

Spl. Judge, CBI, Kamrup for granting bail with CBI Case No. RC 0562023500012/ CBI/SCB/Kolkata U/s 120B, 147, 148, 149, 153A, 302, 354, 354-B, 34, 376(2)(g) and 376-D IPC, Section 3(1)d, 3(1)e, 3(1)g, 3(1)w(i) & 3(2)v of SC & ST (PoA) Act, 1989. However, the same was rejected vide order dated 04-01-2024.

Further, it is also admitted position of fact that charge sheet was already filed in connection with the case against the present accused/petitioner with other co-accused and the same is pending before the Court of Spl. Judge, CBI, Kamrup for trial. The coordinate Bench of this High Court vide order dated 22.12.2023 passed Bail Appln. No. 27 of 2023 wherein, the present accused/petitioner is one of the petitioner, in para No. 10 and 11 of the order observed the following:

"[10] This Court has considered the submissions made with regard to the maintainability of the bail application and has perused the materials on record. It is clear from the order dated 25.08.2023 passed by the Hon'ble Supreme Court that further proceedings of 27 cases (including the present case) would be conducted at Guwahati due to the prevailing situations in Manipur. Courts have been identified in Guwahati for the said purpose. The limited jurisdiction of recording statements under Section 164 CrPC and conducting TIPs in Manipur is aimed at facilitating the investigation and the same cannot be stretched conferring parallel jurisdiction in Manipur even after transfer. Now, the chargesheet has been filed by the CBI before the Special Court at Guwahati.

[11] In the circumstances, this Court is of the considered view that it may no longer be proper to entertain these bail applications, even though the impugned common order dated 04.09.2023 was passed by a Court within the territorial jurisdiction of this Court. Without expressing any opinion on the merit of the case the bail applications are disposed of with a liberty to the accused persons to approach competent courts at Guwahati, if so advised. No cost."

[19] In view of the admitted position of the facts and circumstances as discussed above and taking into consideration the observation made herein above by the coordinate Single Bench of this High Court, I am of the considered view that this Court lacks jurisdiction to deal with the case. Without going into the merit of the case, the present application is dismissed as lack of jurisdiction.

JUDGE

FR/NFR

Lucy/Bipin