

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

AB No. 31 of 2023

Stiff Khapudang

Vs.

Superintendent of Police, CID (CB) Manipur. O.C.,CB & anr.

... *Petitioner/s*

... *Respondent/s*

With

Cril.M.C. No. 17 of 2023

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

09-10-2023

Heard Mr. N. Ibotombi, learned senior counsel assisted by Mr. A. Rommel, learned counsel appearing for the petitioner and also Mr. M. Rarry, learned Special PP appearing for the respondents.

[2] Issue notice, returnable within two weeks.

[3] As Mr. M. Rarry, learned Special PP entered appearance and accepts notice on behalf of both the respondents, no formal notice is called for.

[4] I have heard the submissions made by the learned counsel appearing for the parties at length with regard to the prayer for passing interim order.

[5] The case of the petitioner is that a complaint was filed against him before the Manipur Lokayukta and the said complaint was registered as Complaint Case No. 5 of 2020. Thereafter, on the direction given by the Manipur Lokayukta, a preliminary inquiry was held by the Investigating Authority and submitted a preliminary report dated 04-02-

2022. After considering the said preliminary inquiry report and after giving opportunity of being heard to the petitioner as well as the other accused persons, the Manipur Lokayukta passed a judgment and order dated 18-09-2023 in the said Complaint Case No. 5 of 2020 thereby directing, inter alia, to investigate with regard to the findings given in the said inquiry report by treating it as oral ezahar. On the basis of the direction given by the Hon'ble Lokayukta, an FIR being **FIR No. 5(09) 2023 CB-PS U/S 7(b)/13 P.C. Act & 120-B/34 I.P.C.** was registered against the petitioner and other 18 persons.

[6] The offences alleged to have been committed by the petitioner as reflected in the said report are as under :

“v)Shri Stiff Khapudang, MCS, the then CEO, ADC, Senapati for the period from 13.07.2017 to 09.09.2019 and 11.10.2019 to 06.09.2021 (Now Additional Deputy Commissioner, Noney District).

“During his tenure as CEO of the ADC, Senapati he had put up files to the Chairman for passing bills for payment to the work agencies by overlooking his official capacity to verify the completion reports submitted by the work agencies. He had never relied on the official records/documents for passing the bills. The MB which is a very important record book of works was never relied upon.

“Being a joint signatory with the Chairman of ADC, Senapati for the ADC account, he had made payments to the work agencies. He had misused his official power by making decisions based only on the reports submitted by the work agencies and not on the official records/documents. In spite of his knowledge about the non-execution of the work/uncompleted works or non-maintenance of quality of the work, payments of bills were made to the work agencies. His act has encouraged the work agencies to submit their fictitious reports.

“His act of signing on documents as CEO for the period in which he is not assuming the charge of CEO creates doubtfulness/suspicion of the authenticity of the documents/records maintained at the office of ADC, Senapati.

“No call of tender for selecting the work agencies for execution of the work programmes was done before the issuance of OM dated 09.11.2018, thus violating the Rule No. 95 and Rule No. 97 of “The Manipur (Hill Areas) District Council rules, 1972”.

“He made deductions from the sanctioned amount during the payment of bills to the work agencies for unexplained reasons indicating irregular transactions between the officials of ADC, Senapati and the work agencies.”

[7] On apprehension of being arrested by the police in connection with the said FIR, the petitioner approached this Court by filing the present Anticipatory Bail Application with a prayer for releasing him on bail in the event of his arrest by the police in connection with the said FIR.

[8] Mr. N. Ibotombi, learned senior counsel appearing for the petitioner submitted that the petitioner is a Manipur Civil Service Officer and presently posted as Additional Deputy Commissioner, Noney District, Government of Manipur. It has further been submitted that the petitioner is a high ranking government official and a responsible person and that he has no prior criminal antecedents and there is no question of his absconding at all. It has also been submitted that all the relevant documents in connection with the allegation made against the petitioner have already been seized by the authorities from the office of the

Autonomous District Council, Senapati and accordingly, there is no question of tempering with any of the evidences. The learned senior counsel further submitted that the petitioner will cooperate with the investigation at every stage of the investigation and there is no need or reason for detaining the petitioner in police custody. The petitioner has also given an undertaking that he will make himself available for interrogation by the IO (Investigating Officer) of the case as and when required and that he will not directly or indirectly make any inducement threat or promise any person acquainted with the facts of the case so as to dissuade him/her from disclosing such fact to the Court or any Police Officer.

[9] The learned counsel, lastly, submitted that pending consideration of the present application, an interim order be passed to release the petitioner on bail in the event of his arrest by the Police in connection with the said FIR.

[10] Mr. M. Rarry, learned Special PP appearing for the respondents strenuously raised a strong objection to the passing of any interim order. The learned counsel addressed this Court at length by drawing attention of this Court to the relevant portions of the preliminary reports, the order passed by the Manipur Lokayukta as well as the main pleadings made in the present bail application. The learned Special PP also cited the case laws rendered by the Hon'ble Apex Court in the case of "P. Chidambaram –vrs-. Directorate of Enforcement", reported in 2019(9) SCC 24 and judgment dated 17-03-2023 passed by the Hon'ble

Apex Court in Cril. Appeals No. 822/823 of 2023 in the case of “Ms. X - vrs.- The State of Maharashtra & anr.”. The learned counsel strenuously submitted that the offence alleged to have been committed by the petitioner is serious in nature as it involves economic offences which is committed against the general public. It has also been submitted that the petitioner is involved not only in the said FIR but also in two other FIRs and that during his tenure as CEO of the ADC, Senapati, all the economic offences has been committed and he is involved in the all the offences. Taking into consideration the serious nature of the offences said to have been committed and the principle of law laid down by the Hon’ble Apex Court in the above said two cases, the learned Special PP submitted that no interim order should be passed granting anticipatory bail to the present petitioner.

[11] I have heard the submission advanced by the learned counsel appearing for the parties at length and also examined the materials available on record. On examination of the offences alleged to have been committed by the petitioner and the preliminary inquiry reports submitted by the Inquiry Officer, it is ascertained that all the alleged offences were committed between 2017 to 2021 and that a thorough investigation had been held and all the necessary documents had been seized and is in the custody of the Manipur Lokayukta. In that view of the matter, there is no chance of tempering of evidence by the accused. As the petitioner is now being posted at Noney District which is a different hill district, there is also no chance of his inducing or threatening any person

acquainted with the facts of the case which happened in another hill District of Senapati. This Court is also of the considered view that since the petitioner is a highly responsible Government Officer, there is no chance of his absconding during the period of investigation. The petitioner has also categorically given an undertaking in the present bail application that he will make himself available for interrogation by the Investigating Officer of the case as and when required and that he is ready to comply with any condition imposed by this Court.

[12] As the respondents have not filed any written objection and as the Special PP has failed to satisfy this Court about the requirement of keeping the petitioner in police custody during the period of investigation, this Court is of the considered view that it will be appropriate to give the respondents a chance of filing objection. Accordingly, list this case again on 31-10-2023 for consideration of the prayer for passing any interim order and in the meantime, the respondents are directed to file their written objection if so advised.

[13] As an interim measure and till the next date, it is hereby directed that if the petitioner is arrested by the police in connection with the said FIR before the next date of hearing, he shall be released on bail on his submitting a bail bond of Rs. 50,000/- (Rupees fifty thousand) with one surely (Government employee) to the satisfaction of the Arresting Authority. It is also made clear that the petitioner should cooperate with the investigation and he should make himself available for interrogation by the IO of the case in connection with the said FIR as and when

required. The petitioner should not leave the State of Manipur without prior permission of the arresting authority. It is further made clear that if the petitioner violates any of the conditions given hereinabove, the respondents are at liberty to approach this Court for modification or cancellation of this interim order.

JUDGE

Dhakshori