

**IN THE COURT OF ADDL. DISTRICT & SESSION JUDGE-III
AIZAWL JUDICIAL DISTRICT, AIZAWL**

Crl. Misc. Appln. No. 10/2014
in Crl. Tr. No. 296/13
u/s 307/324 IPC.

Samsul Haque Laskar	:	Petitioner
Versus		
State	:	Respondent
Date of Order	:	13.02.2014

PRESENT

Smt. Helen Dawngliani, AD& SJ-III

APPEARANCE

For the Petitioner	:	R. Thangkanglova, Advocate
For the Respondent	:	Rose Mary, Addl. PP

ORDER

This application has been filed u/s 440(2) Cr.P.C. for reduction of surety and bail bond.

Heard the Id. Counsels.

Mr. R. Thangkanglova, the Id. State Defence Counsel submitted that this Court vide Order dt.12.11.2013 passed in Bail Application No. 1089/13 had granted bail to the accused/applicant by fixing a Surety who should possess a Land Settlement Certificate and Voters Identity Card and the bail was granted with a bond of Rs. 80,000/-. The Id. Counsel argued that the applicant belongs to an economically weaker section of the society and he not being a native of Mizoram is not in a position to find a Surety fixed by this Court. According to the Id. Counsel though bail was granted to the applicant way back on 12.11.2013, due to the said inability the accused continued to be detained in custody which according to the Id. Counsel amounts to rejection of bail itself and violative of the right of the accused. The Id. Counsel also submitted that since the matter have been compromised, none of the Prosecution Witnesses have appeared till date and detention of accused in custody is highly illegal. The Id. Counsel therefore prays that Surety may be reduced to a resident of Aizawl having Voter's Identity Card and bail bond be reduced to Rs. 10,000/-.

On the other hand, Mrs. Rose Mary, the Id. Addl. PP submitted that the offence for which the accused is facing trial is a serious crime. The accused not being a native of Mizoram there is every possibility of his absconding if bail is granted without sufficient Surety. The Id.

Counsel submitted that the offence is non-compoundable and the condition of bail cannot be reduced only because of the compromise made by the parties.

Heard the Id. Counsels and perused the record. Charge has been framed u/s 307/324 IPC against the accused. The record also shows that the parties have come to a compromise and the expenditure for the medical treatment of the victim was borne by the accused. The matter has been fixed for Prosecution Evidence since 10.10.2013. However till date not a single witness has been produced by the Prosecution. The record also shows that the accused is illiterate and earning livelihood as bettel leaves seller with middle income group from Rs. 1001 – Rs. 2000 per month. Considering the background of the accused, I am convinced by the submission of the Id. Counsel for the accused that he is unable to find sufficient Surety. The record shows that the accused was enlarged on bail on 12.11.2013 but till date he continues to be in custody as he is unable to find sufficient Surety. Due to the inability of the accused to find a sufficient Surety, despite being granted bail he continues to suffer detention for nearly 3 months thereafter. This would surely amount to rejection of bail itself and it would prejudice the interest of the accused.

Accordingly, the Surety and the bail bond which was fixed vide Order dt.12.11.2013 in Bail Application No. 1089/2013 is modified as follows: -

The accused Samsul Haque Laskar is enlarged on bail with a bond of Rs. 15,000/- with 1 reliable Surety of the like amount. The Surety must be a resident of Aizawl possessing Electoral Photo Identity Card (EPIC) and he should produce the original EPIC and submit the photo copy after comparison as well as 2 recent passport size photographs.

With the above Order, the application stands disposed off.

Sd/- HELEN DAWNGLIANI
Addl. Dist & Sessions Judge-III,
Aizawl Judicial District, Aizawl.

Memo No. AD & SJ/2013 : Dated Aizawl, the 13th February, 2014
Copy to :

1. Samsul Haque Laskar through Counsel Mr. R. Thangkanglova, Advocate.
2. Mrs. Rose Mary, Addl. PP.
3. Registration Section.
4. Guard File.
5. Case Record.

P E S H K A R