

# Mayanglambam Arun Singh vs Union Of India on 6 March, 2019

**Author: Manash Ranjan Pathak**

**Bench: Manash Ranjan Pathak**

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GAHC010029072019

THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln. 301/2019

1:MAYANGLAMBAM ARUN SINGH  
S/O LATE MAYANGLAMBAM KUMAR SINGH, R/O TAKYEL KHONGBAL  
MAYAI LEIKAI, PS LAMPHEL, DIST. IMPHAL WEST, MANIPUR-795113

VERSUS

1:UNION OF INDIA  
REP. BY ANTI-SMUGGLING UNIT, CUSTOMS DIVISION, GUWAHATI

Advocate for the Petitioner : MR. M BISWAS

Advocate for the Respondent : SC, CUSTOMS

BEFORE  
HON' BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

Date : 06-03-2019 Heard Mr. M Biswas, learned counsel for the petitioner and Ms. P. Basfore, learned counsel, appearing on behalf of Ms. M Bhattacharjee, learned Special Public Prosecutor, Customs and DRI.

The petitioner, namely, Mayanglambam Arun Singh, who was arrested in connection with Seizure Case No. 02/CL/NARC/AS/GAU/2018-19, corresponding to NDPS Case No. 97/2018 on 01.06.2018 under Sections 21(c), 22(c) & 29 of the NDPS Act, 1985 has preferred this bail application under Section 439 Cr.P.C., stating that since his date of arrest, he is in custody and as the Anti- Smuggling Unit of the Customs Division, Guwahati has already filed the charge-sheet in the case, his further custodial detention is not required. It is submitted that considering his period of detention in custody since 01.06.2018 and as charge-sheet in the case has already been filed, his bail in the said

NDPS Case should be considered.

The petitioner earlier approached this Court for his bail in said Seizure Case No. 02/CL/NARC/AS/GAU/2018-19 in Bail Appln. No. 2777/2018 and by order dated 28.11.2018, such bail prayer of the petitioner was rejected, since it was stated by the learned counsel for the Customs Division, Guwahati that charge-sheet in the case was filed on 27.11.2018.

Observing that charge-sheet in the case was filed on 27.11.2018 within 180 days of arrest of the petitioner as required under Section 36A (4) of said 1985 Act, the prayer for default bail of the petitioner was rejected by said order dated 28.11.2018 and the petitioner was directed to approach the appropriate Court for his bail.

In this application, the petitioner placed before the Court a photo copy of the alleged case history found in the official website of the District and Additional Sessions Judge, Kamrup (M), Guwahati (Annexure-5 to the petition) and showed that the respondent Customs Division, Guwahati filed the charge-sheet in the case only on 28.11.2018 vide filing No. 3293/2018 and not on 27.11.2018 as stated before Court and submitted that the respondent made a wrong statement and therefore, the petitioner is entitled for default bail for non-submission of the charge-sheet within the time prescribed by law.

Mr. Biswas, further submitted that the petitioner's minor child as well as his wife are not keeping well and suffered from various ailments, for which they need medical attentions.

Page No.# 3/4 The petitioner also submitted that he himself suffers from many medical ailments. To the extent above, the petitioner has annexed some prescriptions and the findings of the doctor with regard to his minor child, his wife and himself and annexed them to this petition.

By order dated 21.02.2019, Ms. M Bhattacharjee, learned Special Public Prosecutor, Customs and DRI was directed to place before the Court as to when the charge-sheet in the case was filed before the learned Special Judge (NDPS), Kamrup (M), Guwahati in the case concerned and today, a certificate issued by the Sheristadar In-charge of the Court of District and Sessions Judge, Kamrup (M), Guwahati under Memo No. DJK/1138 dated 26.02.2019 has been placed before the Court by the respondent, wherein it is specifically stated that with regard to the said seizure case in hand, the Customs Division, Guwahati filed the charge-sheet on 27.11.2018 that was received and accepted by the then Sheristadar, Shri Akan Choudhury, since retired, but it could not be registered on the same day due to paucity of time and it was registered on 28.11.2018 as NDPS Case No. 97/2018.

From the certificate dated 26.02.2019, it is seen that the present In-charge Sheristadar of the Court of District and Sessions Judge, Kamrup (M), Guwahati issued the said certificate officially with memo number and date and as directed by the authority.

For the reasons above, this Court is of the view that the charge-sheet in the case was filed on 27.11.2018 and within the time specified by the Act and there is nothing before the Court to disbelieve such an official letter of a Court. As such, the petitioner is not entitled to any default bail

in said Seizure Case No. 02/CL/NARC/AS/GAU/2018-19.

Further, with regard to the physical condition of the petitioner, his wife and the minor child, it is found that the prescriptions and findings of the doctor annexed to the petition were of October, 2018 and prior to that, much before the order dated 28.11.2018 passed by the Court earlier while rejecting the Bail Appln. No. 2777/2018 that was preferred by the petitioner.

On being enquired with regard to the present status of said NDPS Case No. 97/2018, Mr. Biswas, learned counsel for the petitioner submits that the charge in the case are yet to be framed.

On the other hand, Ms. P Basfore, appearing on behalf of Ms. M Bhattacharjee, learned Special Public Prosecutor, Customs and DRI submitted that the learned Special Court, NDPS on 26.02.2019 has already framed charge against the petitioner and the other co-accused of the case and 12.03.2019 is the date fixed for evidence.

The materials seized from the petitioner and the co-accused are found to be the methamphetamine, morphine and narcotics substances.

Page No.# 4/4 Considering the above, this Court is of the view that detention of the petitioner in custody since 01.06.2018 cannot be considered for his bail in said Seizure Case No. 02/CL/NARC/AS/GAU/2018-19 corresponding to NDPS Case No. 97/2018, at this stage, when evidence of prosecution witnesses are yet to be recorded.

Accordingly, this bail application of the petitioner stands rejected.

Copy of the certified copy of the offence report filed by Anti-Smuggling Unit, Customs Division, Guwahati in Seizure Case No. 02/CL/NARC/AS/GAU/2018-19 on 27.11.2018 placed on behalf of the petitioner as well as the certificate issued by the Sheristadar In-charge of the Court of District and Sessions Judge, Kamrup (M), Guwahati under Memo No. DJK/1138 dated 26.02.2019 placed by learned counsel for respondent be kept as a part of the record.

JUDGE Comparing Assistant