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

**CRIL. PETN. No. 3 of 2022**

Mr. Lairenlakpam Bobo Singh, aged about 33 years,  
S/o Lairenlakpam Kulachandra Singh of Kakwa  
Laiphrakpam Leikai, P.O & P.S Singjamei, Imphal  
West District, Manipur, Pin No. 795008.

.... Petitioner

- Versus -

The Officer-in-Charge, Singjamei Police Station, P.O.  
Singjamei, Imphal West District, Manipur, Pin No.  
795008.

.... Respondent

**BEFORE**  
**HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU**

For the petitioner : Mr. Th. Mahira, Advocate  
For the respondents: Mr. S. Nepolean, Public Prosecutor  
Date of hearing : 01.08.2024  
Date of judgment &  
order : **14.08.2024**

**JUDGEMENT & ORDER**  
**(CAV)**

[1] Heard Mr. Th. Mahira, learned counsel appearing for the petitioner and Mr. S. Nepolean, learned PP appearing for the respondent.

[2] The present petition has been filed under Section 482 of Code of Criminal Procedure, 1973 praying for quashing the impugned order dated 09.02.2022 passed by the Ld. Chief Judicial Magistrate, Imphal West in Cril. Misc. (B) Case No. 259 of 2021 rejecting the prayer for bail with a direction to the Accused/petitioner to surrender himself before the Superintendent of Police, Manipur Central Jail, Sajiwa on 08.03.2022 before 12:00 noon with the following prayers :

- (i) to quash and setting aside the impugned bail rejection order dated 09.02.2022 passed by the Ld. Chief Judicial Magistrate, Imphal West in Cril. Misc. (B) Case No. 259 of 2021 and to pass all other incidental and consequential orders as may be deemed fit and proper.
- (ii) pending admission, hearing and final disposal of the criminal petition, to stay the impugned bail rejection order dated 09.02.2022 passed by the Ld. Chief Judicial Magistrate, Imphal West in Cril. Misc.(B) Case No. 259 of 2021 and grant bail to the Petitioner/accused or set free.

[3] The petitioner/accused was arrested in connection with FIR No. 164(11)2021 SJM PS, U/s 354 IPC on 09.11.2021. On 10.11.2021, the I.O of the case produced the petitioner/accused before the Ld. CJM, Imphal West with a prayer for remanding the petitioner/accused into

police custody for interrogation accordingly the prayer was allowed and remanded him into police custody till 15.11.2021.

[4] On 15.11.2021, the petitioner/accused filed a bail application being Cril. Misc. (B) Case No. 259 of 2021 before the Ld. CJM, Imphal West, Manipur and the Ld. CJM, Imphal West released the petitioner/accused on interim bail vide order dated 09.12.2021 with the following conditions that

- (i) The accused/petitioner is directed not to do any illegal activity, coerce or threaten witness or the complainant or the family of the witnesses and complainant;
- (ii) The accused shall appear before the court on 09.02.2022 in person before the court without fail;
- (iii) The accused shall not threaten, contact or induce any of the prosecution witnesses during the interim bail;
- (iv) The accused shall make himself available for interrogation by the Investigation Officer as and when required;
- (v) the accused shall not commit any offence in the future;
- (vi) the accused shall not leave the State of Manipur without prior permission of the Court and
- (vii) the accused shall not temper or threat the witnesses or the complainant respectively. However, on 09.02.2022 after hearing both the parties, Ld. CJM, Imphal West passed impugned bail order thereby directing the petitioner/accused to surrender before the Superintendent on Police, Manipur Central Jail-Sajiwa on 08.03.2022 holding that the nature of allegation is of heinous crime against a young girl in the open street and thus interim bail which is extended for another

month will not be further extended in any circumstances.

[5] The learned counsel for the petitioner contended that as per Section 41 and 41A of the Code of Criminal Procedure, arrest is not mandatory in cognizable offences punishable with imprisonment upto seven (7) years. Also it is a bounded duty of the magistrate that when an accused person punishable with upto 7 (seven) years imprisonment is produced before him, the magistrate should satisfy himself that the application for remand by the police officer has been made in a bona fide manner and the reasons for seeking remand mentioned in the case diary are in accordance with the requirements of sections 41(1)(b) and 41A of the Code of Criminal Procedure and there is concrete material in existence to substantiate the ground mentioned for seeking remand and then only he should remand the accused in custody. But in the present case, the application for remand fails to fulfill the requirements of sections 41(1)(b) and 41A of the Code of Criminal Procedure and the Ld. Chief Judicial Magistrate, Imphal West, Manipur cancelled the bail application of the petitioner/accused without applying his judicial mind. Being aggrieved by the impugned bail order dated 09.02.2022 the petitioner/accused filed the present petition.

And also, in support of his case, referred to the decision of the Hon'ble Supreme Court in ***Arnesh Kumar vs State of Bihar &Anr [2014 (8) SCC 273]*** which reads as under;

*"9. An accused arrested without warrant by the police has the constitutional right under Article 22(2) of the Constitution of India and Section 57, Cr.PC to be produced before the Magistrate without unnecessary delay and in no circumstances beyond 24 hours excluding the time necessary for the journey. During the course of investigation of a case, an accused can be kept in detention beyond a period of 24 hours only when it is authorised by the Magistrate in exercise of power under Section 167 Cr.PC. The power to authorise detention is a very solemn function. It affects the liberty and freedom of citizens and needs to be exercised with great care and caution. Our experience tells us that it is not exercised with the seriousness it deserves. In many of the cases, detention is authorised in a routine, casual and cavalier manner. Before a Magistrate authorises detention under Section 167, Cr.PC, he has to be first satisfied that the arrest made is legal and in accordance with law and all the constitutional rights of the person arrested is satisfied. If the arrest effected by the police officer does not satisfy the requirements of Section 41 of the Code, Magistrate is duty bound not to authorise his further detention and release the accused. In other words, when an accused is produced before the Magistrate, the police officer effecting the arrest is required to furnish to the Magistrate, the facts, reasons and its conclusions for arrest and the Magistrate in turn is to be satisfied that condition precedent for arrest under Section 41 Cr.PC has been satisfied and it is only thereafter that he will authorise the detention of an accused. The Magistrate before authorising detention will record its own satisfaction, may be in brief but the said satisfaction must reflect from its order. It shall never be based upon the ipse dixit of the police officer, for example, in case the police officer considers the arrest necessary to prevent such person from committing any further offence or for proper investigation of the case or for preventing an accused from tampering with evidence or making inducement etc., the police officer shall furnish to the Magistrate the facts, the reasons and materials on the basis of which the police officer had reached its conclusion. Those shall be perused by the Magistrate while authorising the detention and only after recording its satisfaction in writing that the Magistrate will authorise the detention of the accused. In fine, when a suspect is arrested and produced before a Magistrate for authorising detention, the Magistrate has to address the question whether specific reasons have been recorded for arrest and if so, prima facie those reasons are relevant and secondly a reasonable conclusion could at all be reached by the police officer that one or the other conditions stated above are attracted. To this limited extent the Magistrate will make judicial scrutiny".*

[6] Further, the learned counsel for the petitioner submits the order dated 11.09.2023 of the High Court of Manipur.

**"HIGH COURT OF MANIPUR AT IMPHAL**

**NOTIFICATION**

*Imphal the 11th September, 2023*

*No. HCM/R-46/2019-Estt.1/ : Pursuant to the directions Issued by the Hon'ble Supreme Court of India In its Judgment dated 31.07.2023 passed in Criminal Appeal No(s) 2207 of 2023 [Md. Asfak Alam V. The State of Jharkhand & Anr.] arising out of Special Leave Petition (Crl.) No. 3433/2023, the High Court of Manipur here by issues the following guidelines inline with the directions contained in Arnesh Kumar v. State of Bihar and Another (2014) 8 SCR 128 as well as other directions, for ensuring that police officers do not arrest the accused unnecessarily and Magistrate do not authorise detention casually and mechanically, as under:-*

*1) The State Government is to Instruct its police officers not to automatically arrest when a case under Section 498-A IPC Is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 Cr.P.C;*

*2) All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii) Cr.P.C;*

*3) The police officer-shall forward the check list duly filled as speed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;*

*4) The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;*

*5) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the Institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;*

*6) Notice of appearance in terms of Section 41-A Cr.P.C be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;*

*7) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of*

*court to be instituted before the High Court having territorial Jurisdictions;*

*8) Authorizing detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.*

*9) The directions aforesaid shall not only apply to the case under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, but also such cases where offence is punishable with Imprisonment for a terms which may be less than seven years or which may extend to seven years, whether with or without fine."*

*The said directions of the Hon'ble Supreme Court, in the form of the above guidelines, shall be strictly followed by all the Sessions Courts and all other criminal courts dealing with various offences, within the jurisdiction of the High Court of Manipur.*

*By order,*

*Sd/-  
(Ojesh Mutum)  
Registrar Judl.  
High Court of Manipur"*

[7] For the sake of convenience and for reference, Section 41 (1)(b) and Section 41A are extracted herein below:

***Section 41(1)(b) of the Code of Criminal Procedure, 1973:***

*41. When police may arrest without warrant –*

*(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person –*

*(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely –*

*(i) the police officer has reason to believe on the basis of such complaint, information, or*

*suspicion that such person has committed the said offence;*

*(ii) the police officer is satisfied that such arrest is necessary-*

*(a) to prevent such person from committing any further offence, or*

*(b) for proper investigation of the offence; or*

*(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner, or*

*(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or*

*(e) an unless such person is arrested, his presence in the Court whenever required cannot be ensured, and the police officer shall record while making such arrest, his reasons in writing.*

*[Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest.]*

*(ba) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence.*

**Section 41A.: Notice of appearance before police officer –**

- (1) *The police officer shall, in all cases where the arrest of a person is not required under the provisions of sub – section (1) of Section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.*
- (2) *Where such a notice is issued to any person, it shall be duty of that person to comply with the terms of the notice.*
- (3) *Where such person complies and continues to comply with the notice, shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.*
- (4) *Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.*

[8] Again, the complaint report dated 09.11.2021 and the orders dated 09.12.2021 & 09.02.2022 respectively are extracted herein below:

**"Annexure – A/2**

*To  
The Officer-in-Charge,  
Singjamei Police Station,  
Imphal West District, Manipur.*

*Sub :- Complaint report.*

*Sir,*

*I have the honor to report that today i.e. the 9<sup>th</sup> November, 2021 at @ 06:40 pm. while I was walking with my cousin brother namely Jubal Haobam aged about 15 years S/O AjitHaobam of Singjamei Top Leikai at the road side near VISHAL Mega Mart, Kakwa, one person namely, Lairenlakpam Bobo Singh aged about 33 years S/) LairenlakpamKulachandra Singh of KakwaLaiphrakpamLeikai which was staying near the VISHAL Mega Mart, Kakwa, calling us to come towards him and detain*

us without any reason and suddenly he physically assaulted me by punching and slapping on my face, head and pulling my hair as a result which I was felt on the ground and he repeatedly punched on my head but I was save by the staff of VISHAL Mega Mart. During the time of incident my cousin brother Jubal Haobam try to save me but some unknown person threatened him and try to assault my cousin brother. As a result of which, I have received some injuries on my head and evacuated to Hospital for medical treatment. His act leads to defame my prestige and ourtage of my modesty.

It is therefore requested you to kindly take up necessary action again him.

Date: 09/11/2021

Yours faithfully,  
Sd/-  
(Neha Hoabam (17 years)  
D/O. Amar Singh Haobam,  
Of Singjamei Top Leikai  
# 9383219108"

**"Annexure – A/5**

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE  
IMPHAL WEST, MANIPUR

Cril. Misc. (B) Case No. 259 of 2021  
Ref. : FIR Case No. 164(11) 2021 SJM PS  
u/s 354 IPC.

**Lairenlakpam Bobo Singh**, aged about 33 years S/o  
Lairenlakpam Kulachandra Singh of Kakwa Laiphprakpam Leikai,  
P.S Singjamei, Imphal West District, Manipur.

... Accused person/petitioner

-v-

The State of Manipur

**EXTRACT COPY OF ORDER DT. 09/12/2021:**

This is to dispose of the bail application filed on behalf of the accused/petitioner **Lairenlakpam Bobo Singh** praying for releasing him on bail u/s 437 Cr.P.C.

Bail objection report submitted by the I.O. of the case.

Heard Ld. Counsel Shri L. Manaobi on behalf of the accused an Ld. APP for the State M. Jamuna Devi through video conference using Jitsi Meet App.

*Perused the materials on record including the bail objection report and the medical certificates of the wife of the accused/petitioner.*

*Ld. Counsel for the accused submitted that the accused/petitioner is innocent to the allegation charges leveled against him and that the charges leveled against him are unfounded, false, fabricated and concocted ones.*

*Ld. Counsel for the accused also submits that the accused/petitioner is maintaining the family with the meager income which he earns by doing odd job. It is also submitted that the wife of the accused/petitioner is at an advanced stage of pregnancy and the Expected Delivery Date (EDD) by ultrasound is 26/11/2022. As such prays the court for letting the accused/petitioner on bail.*

*Ld. APP for the State, objecting to the bail petition of the accused/petitioner, submitted that during the investigation of the case, it has been ascertained that the accused/petitioner was drunk on the fateful day. It is submitted that the accused/petitioner hit the victim girl so hard that the girl fell on the ground. It is also submitted that when the girl got up and ran, the accused/petitioner chased her and punched/kicked her four times at four different spots.*

*Ld. APP for the State also submitted that the offences committed by the accused/petitioner is of serious nature. It is also submitted that the case is at its initial stage and some PWs have to be examined to corroborate the materials against the accused person and if the accused is released on bail, there is a high chance of committing multiple similar cases in future and evidences and PWs of the case may be hampered and tampered. As such, prays the court for rejecting the bail petition of the accused in the interest of smooth investigation of the case.*

*On hearing and perusal, it is seen in the medical report of the wife of the accused annexed with the application, that the wife of the accused is 29 weeks pregnant and her expected delivery date by ultrasound falls on 26/01/2022 The said delivery date is not exact and the actual delivery may happen before or after the said date.*

*Accordingly, considering the advantage of pregnancy of his wife, and that the support and care of a husband is required during her stage of pregnancy, I am inclined to consider the bail prayer of the accused leniently.*

*Hence, the accused/petitioner **Lairenlakpam Bobo Singh**, is released on **interim bail** till **09-02-2022** from jail on his executing a P.R. Bond of Rs. 50,000/- with surety bond of the like amount and on the following conditions that:*

- (i) **the accused/petitioner is directed not to do any illegal activity, coerce or threaten witnesses or the complainant or the family of the witnesses and complainants.***
- (ii) the accused shall appear before the court on 09-02-2022 in person before the court without fail;*

- (iii) *the accused shall not threaten, contact or induce any of the prosecution witnesses during the interim bail;*
- (iv) *the accused shall make himself available for interrogation by the Investigation Officer as and when required;*
- (v) *the accused shall not commit any offence in the future;*
- (vi) *the accused shall not leave the State of Manipur without prior permission of the Court; and*
- (vii) *the accused shall not temper or threat the witnesses or the complainant respectively.*

*Out of the aforesaid P.R. bond of **Rs. 50,000/- (Rupees fifty thousand)** in respect of the accused person, **Rs. 20,000/- (Rupees twenty thousand)** only be furnished in the form of cash to this Court and surety bond of the same is / are to be furnished either in the form of property document(s) or pay certificate (in case the surety is a Govt. Employee). B.C. to deposit the amount to Court's Nazir.*

*If the Court comes to the knowledge that the accused failed to abide by any of the conditions listed above his **interim bail summarily be suspended** and he will be **remanded to judicial custody again**.*

*To this effect, the O.C. Singjamei P.S. is directed to ensure that the accused / petitioner abide by the conditions imposed by this Court by closely monitoring him and to submit a report, anything during his interim bail period, if he fails to abide by them so that this Court may take appropriate action against the accused/petitioner.*

*Fix **09-02-2022** for further proceedings.  
Announced.*

*Sd/-  
(Y. Somorjit Singh)  
CJM/Imphal West"*

**"Annexure – A/6**

*IN THE COURT OF CHIEF JUDICIAL MAGISTRATE  
IMPHAL WEST, MANIPUR*

*Cril. Misc. (B) Case No. 259 of 2021  
Ref. : FIR Case No. 164(11) 2021 SJM PS,  
u/s 354 IPC.*

***Lairenlakpam Bobo Singh**, aged about 33 years S/o  
Lairenlakpam Kulachandra Singh of Kakwa Laiphrakpam Leikai,  
P.S Singjamei, Imphal West District, Manipur.*

*... Accused /Petitioner*

*-v-*

*The State of Manipur*

**EXTRACT COPY OF ORDER DT. 09/02/2022:**

By vide order dtd. 09/12.2021 of this Court, the accused **Lairenlakpam Bobo Singh** was released **on interim bail** till today **i.e. 09-02-2022**.

The case is taken up today through video conference (using Jitsi Meet app) as fixed for considering whether the interim bail granted by this Court vide order dtd. 09/12/2021 be made **absolute or extended or rejected**.

Heard. Perused the materials on record.

It may be noted that this Court granted interim bail to the accused on the ground that the wife of the accused was expecting a child any time soon as per the ultrasound report. As per record submitted by the Id. Counsel for the accused, the wife of the accused person delivered a baby boy on 15/01/2022 through caesarian and it is further submitted that the wife of the accused is still bed-ridden and the service of the accused person as a husband and also as a father to the new born baby after the delivery is very much required at this juncture.

The Id. APP for the State submits that the crime/offences committed by the accused is heinous in nature and also against a young innocent girl and therefore the interim bail granted should not be extended further and be rejected so that the investigation may continue smoothly.

Id. Counsel for the accused submitted that the accused has religiously kept all 7 (seven) conditions imposed by this Court thereby he is no longer threat to the society as a whole and also to the victim in particular and prayed that the interim bail granted by this Court be made absolute.

I have perused the documents submitted by the accused person showing the place and date of delivery of his son and also considered the submissions of the Id. Counsels for the accused as well as the State.

Considering the fact that the wife of the accused underwent a caesarian operation which at times longer time for the patient to recover and also considering the fact that a bed ridden mother may find difficult to take care of the needs of the newly born child, this Court is of the considered view that on humanitarian ground the interim bail for the accused person may be extended for another month i.e. till 08/03/2022. The 7 (seven) conditions imposed in the order dated 9/12/2021 will still continue.

It may be made clear that this Court has not taken lightly of the nature of allegation made against the accused person of committing such heinous crime against a young girl in the open street. Thus, the interim bail which is extended for another month will not be further extended in any circumstances. The bail bond and surety bond submitted by the accused person in the previous may be made good for the 2<sup>nd</sup> interim bail also.

**The accused person is to surrender himself before the S.P., MCJ-Sajiwa on 08/03/2022 before 12:00 noon.**

**Send a copy of this order to the S.P., MCJ-Sajiwa for information and report before this Court of the surrender of the accused person.**

*Sd/-*  
**(Alek Muivah)**  
**CJM-Imphal West"**

[9] In this regard, the remand prayer dated 10.11.2021 is also extracted herein below:

**"Annexure – A/3**

*In the Court of Hon'ble Chief Judicial Magistrate, Imphal West,  
Manipur  
(Through Ld. APP to CJM, Imphal West, Manipur)*

*Subject: Prayer for remanding the undernoted accused person into Police custody for a period of 6 days w.e.f. 10/11/2021 till 15/11/2021.*

*Ref.: FIR No. 164(11)2021 SJM-P.S. U/S 354 I.P.C.*

*Most Respectfully Sheweth,*

*In producing herewith, the under noted accused person, I have the honour to state that the undernoted accused person was arrested on 09/11/2021 at 7:00 pm in c/w the above mentioned FIR case.*

*The brief fact of the case is that on 9<sup>th</sup> November, 2021 at @ 06:40 pm while the complainant was walking with her cousin brother namely Jubal Haobam aged about 15 years, S/o Ajit Haobam of Singjamei Top Leikai at the road side near VISHAL Mega Mart, Kakwa, one person namely Lairenlakpam Bobo Singh aged about 33 years S/o Lairenlakpam Kulachandra Singh of Kakwa, calling them to come towards him and detained them without any reason and suddenly he physically assaulted her by punching and slapping on her face, head and pulling her hair as a result which she was felt on the ground and he repeatedly punched on her head but she was save by the staff of VISHAL Mega Mart. During the time of incident her cousin brother Jubal Haobam tried to save her but some unknown person threatened him and try to assault her cousin brother. As a result of which, she have received some injuries on her head and evacuated to Hospital for medical treatment. His act leads to defame her prestige and ourtage of her modesty. Hence, the case.*

*During the course of investigation, the complainant was examined very carefully and minutely who fully corroborated with the O.E. and recorded her statement in c/w the case. Visited and inspected the P.O. as pointed out by the Complt. And prepare a rough sketch map of the P.O. with its proper index. On preliminary interrogation, the accused person reveals that he had committed unnatural behavior to the girl by punching and slapping on her face, head and pulling her hair. His thorough interrogation is very much require to dig out the true facts of the case.*

*In the light of the above fact and circumstances, the Hon'ble CJM/IW is prayed kindly to remand the undernoted accused person into Police Custody for a period of 6 days w.e.f. 10/11/2021 till 15/11/2021 in the interest of investigation of the case.*

*Particulars of the accused Person:*

- 1. Lairenlakpam Bobo Singh (33) years  
S/o Lairenlakpam Kulachandra Singh  
Of Kakwa Laiphrakpam Leikai, P.O. & P.S. Singjamei  
I/W District, Manipur*

*Dated/Imphal  
The 10<sup>th</sup> Nov., 2021.*

*Yours sincerely  
Sd/-  
(W/S.I. Y. Indubala Devi)  
Of Singjamei-PS/IW"*

[10] On combined perusal of the above referred notification dated 11.09.2023 and the Hon'ble Supreme Court's order passed in ***Arneshkumar v. State of Bihar & Anr. [(2014) 8 SCC 273]*** (supra) and orders dated 09.12.2021 & 09.02.2022 of the Ld. CJM, Imphal West and remand prayer dated 10.11.2021, I am of the considered view that the allegation made above by the learned counsel for the petitioner cannot be taken as true, as Section 41(1)(b) is applicable in the present case as on perusal of the above mentioned remand prayer, it is specifically mentioned that the I.O. registered the FIR on credible information

received from the victim girl who is only 17 years old and further, the I.O. made the remand prayer on a reasonable suspicion that the accused/petitioner has committed a cognizable offence.

[11] On careful perusal of Section 41A, it is seen that the instant case does not fall under Section 41A; but under Section 41(1)(b).

[12] Mention is made here that the learned counsel for the petitioner failed to annex the first remand order of remanding the accused in police custody because only after perusal of the said first remand order, this Court will find out whether the allegation made herein that the magistrate failed to comply with the provision laid down under Section 41 and Section 41A. Further perusal of the orders dated 09.12.2021 & 09.02.2022 of the Ld. CJM, Imphal West, this Court is of the view that the Ld. CJM, Imphal West passed the said orders after due application of mind and by complying the provision of law.

[13] The learned counsel for the petitioner further contended that offence alleged upon the petitioner/accused by the prosecution is not a heinous offence. He further submitted that in ***Shilpa Mittal vs State NCT of Delhi [(2020) 2 SCC 787]***, the Hon'ble Supreme Court of India described heinous offence as "only those offences which prescribe minimum sentence of seven years or more can be regarded as heinous offences. Offence not providing minimum sentence of seven years cannot be treated as heinous offences". He has further submitted

that during the interim bail period the petitioner/accused did not violate any conditions imposed upon him.

[15] That allegation against the present petitioner cannot be regarded as not heinous offence as the stage of the investigation which is at early stage, and top of that, the accused/petitioner was remanded only for short period, thereafter the Ld. CJM, Imphal West granted interim bail and thereafter, extended for another 1(one) month vide order dated 09.02.2022 extracted above.

[16] Thereafter, the petitioner impugned the said order dated 09.02.2022 and this Court vide order dated 04.03.2022 suspended the order of the Ld. CJM, Imphal West and the same is extended from time to time. In this situation, the petitioner's citation of the above mentioned the Hon'ble Supreme Court's order is not applicable.

[17] On 20.05.2022, learned counsel for the State respondent filed affidavit in opposition narrating the whole story of the said incident and he further stated that the interim order was granted only on the ground that his wife was 29 weeks pregnant and her expected delivery dated was coming soon and also considering the fact that care of a husband is required during that period of pregnancy, interim bail till 09.02.2022 was granted upon furnishing a P.R bond of Rs. 50,000/- only with surety bond of the light amount and with some conditions. He further submits that the Ld. CJM, Imphal has rightly held that the crime committed by the petitioner/accused against a young girl in the open

street is a heinous crime. He further submits that the investigation of the case is in full swing.

[18] The learned counsel for the State respondent further submits that during the period of interim bail the petitioner/accused might have not violated the conditions imposed upon him, however, it cannot be said that the petitioner/accused will never commit any crime in future. He further submits that during the course of investigation, many of the PWs who know the petitioner/accused have disclosed in their statements before the I.O that the petitioner/accused is of a ferocious character who beats and assaults the people without proper reason but of a GUNDAISM nature. He further submits that in a catena of cases this Hon'ble High Court as well as the Hon'ble Supreme Court of India held that *"Personal liberty cannot be taken away except in accordance with the procedure established by law. Personal liberty is a constitutional guarantee. However, Article 21 which guarantees the above right also contemplates deprivation of personal liberty by procedure established by law. Under the criminal laws of this country, a person accused of offences which are non-bailable is liable to be detained in custody during the pendency of trial unless he is enlarged on bail in accordance with law. Such detention cannot be questioned as being violative of Article 21 since the same is authorized by law"*. Further, it is submitted that in a number of cases, the Hon'ble Supreme Court of India as well as this Hon'ble High Court held that *"While deciding the cases on facts, more so in criminal cases the court should bear in mind that each case must rest on its own*

*facts and the similarity of facts in one case cannot be used to bear in mind the conclusion of fact in another case. It is also a well-established principle that while considering the ratio laid down in one case, the court will have to bear in mind that every judgment must be read as applicable to the particular facts proved or assumed to be true since the generality of expressions which may be found therein are not intended to be expositions of the whole of the law, but are governed and qualified by the particular facts of the case in which such expressions are to be found. A case is only an authority for what it actually decides, and not what logically follows from it."*

[19] On 14.07.2022, learned counsel for the petitioner filed rejoinder affidavit in reply to the affidavit in opposition filed by the respondent by denying all other averments made by the respondent except those which are specifically admitted in the rejoinder affidavit. Learned counsel for the petitioner further submits that there is no medical reports to support the plea of the respondent in regard to the statements that "the present petitioner physically assaulted the complainant by punching and slapping on her face, head and pull her hair as a result she felt on the ground and the petitioner repeatedly punch, kick on her head by grabbing her hair with his tide grip". He further submits that the present FIR is the only FIR registered against him till date and the petitioner/accused has never committed any crime/offence in his past life and the accusation/allegation is unfounded, false, fabricated, concocted and without any basis.

The grounds taken herein are not sustainable as this Court vide order dated 04.03.2022 suspended the order of the 09.02.2022 and as per the submission of the learned PP, the investigation was not taken further.

[20] On perusal of record, it is seen that vide order dated 04.03.2022, this High Court has suspended the order dated 09.02.2022 passed by the Ld. CJM, Imphal West, Manipur in Cril (B) Case No. 259 of 2021 and the said suspension order has been extended from time to time till date. Again on 22.09.2022, learned PP seeks time to ascertain whether the petitioner was complying with the bail conditions and also the status of the investigation, accordingly further time was granted. However, till date learned PP has not submitted the status report of the investigation. Instead, the learned PP submits that after the suspension of the order of the Ld. CJM, the investigation cannot be taken further.

Operative portion of the order dated 04.03.2022 reads as follows:

*"The order dated 09.02.2022 passed by the Ld. CJM, Imphal West, Manipur in Cril (B) Case No. 259 of 2021 shall stand suspended till then."*

[21] In the facts and circumstances of the case and discussions made above, the present petition filed by the petitioner has no merit and there is no ground for interference with the order dated 09.02.2022 of the Ld. CJM, Imphal West as the Ld. CJM passed the said order after due consideration of the facts and law.

[22] Accordingly, the present Cril. Petition is dismissed with direction that the petitioner is to surrender before the I.O. of the case within 10 (ten) days from the date of receipt of a copy of this order.

[23] Send an extract copy of this order to the court of Chief Judicial Magistrate, Imphal West, Manipur.

[24] Furnish a copy of this order to both the learned counsel appearing for the parties.

**JUDGE**

**FR/NFR**

*Lucy/Bipin*