

IN THE HIGH COURT OF SIKKIM

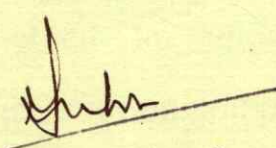
ORDER SHEET

CRIMINAL REVISION No. **8** of 200 **4**

DIL HASAN ANSARI Petitioner / Appellant

Versus

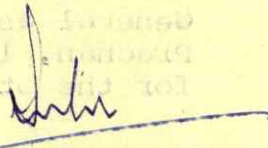
STATE OF SIKKIM Respondent

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	29.11.2004	<p>Present : Mr. K. T. Bhutia, learned Counsel for the petitioner.</p> <p>Mr. S. P. Wangdi, learned Advocate General assisted by Mr. J. B. Pradhan, learned Public Prosecutor for the State - respondent.</p> <p style="text-align: center;">---</p> <p>Heard Mr. K. T. Bhutia, learned Counsel for the accused-petitioner. Also heard Mr. S. P. Wangdi, learned Advocate General assisted by Mr. J. B. Pradhan, learned Public Prosecutor for the State - respondent.</p> <p>Admit. No formal notice need be sent to the State - respondent, as Mr. J. B. Pradhan, learned Public Prosecutor accepts notice on behalf of the State.</p> <p>Call for the lower court records.</p> <p>List this case for hearing on 6th December, 2004.</p> <p style="text-align: right;"> (A. P. Subba) <u>Judge</u></p>	<p>Office Note as to action (if any) taken on Order</p> <p><i>Just Court records called for on 29-11-04.</i> <i>hu cas 8</i> <i>29/11/04</i></p> <p><i>Just Court records recd. on 4/12/04.</i> <i>hu cas 8</i> <i>4/12/04</i></p>

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2. 6.12.2004 Present : Mr. Karma T. Bhutia, learned counsel for the petitioner.
- Mr. J. B. Pradhan, learned Public Prosecutor for the State.
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- Heard Mr. Karma T. Bhutia, learned Counsel for the petitioner and Mr. J. B. Pradhan, learned Public Prosecutor for the State in part. To come up for further hearing tomorrow.
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(A. P. Subba)
Judge
3. 7.12.2004 Present : Mr. Karma T. Bhutia, learned Counsel for the petitioner.
- Mr. J. B. Pradhan, learned Public Prosecutor for the State.
- Heard Mr. Karma T. Bhutia, learned Counsel for the accused/petitioner and Mr. J. B. Pradhan, learned Public Prosecutor for the State - respondent.
2. The order dated 24.11.2004 passed by the learned Sessions Judge, South and West at Namchi in Criminal Misc. Case No.69 of 2004 granting bail to the petitioner herein, on certain conditions including furnishing of bank guarantee in the sum of Rs.8,00,00,000/- (Rupees eight crores), and two solvent sureties in the sum of Rs.1,00,00,00 (Rupees one crore) each, is the subject matter under



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		<p>challenge in this revision petition. The submission of Mr. K. T. Bhutia, learned Counsel for the petitioner, is that, the provisions under Cr.P.C. do not stipulate imposing of any condition requiring an accused to furnish bank guarantee. His further submission is that, the amount of bond fixed by the Court is so excessive, that the same tantamounts to denial of bail.</p> <p>3. In support of his submission, on the question of the bank guarantee, the learned Counsel referred to and relied on the order dated 2.12.2002 passed by this Court in Criminal Revision Petition No.4 of 2002. A perusal of this order shows that the petitioner in the said revision petition had raised the same plea as in the present case, i.e., that there was no provision of law empowering the court to impose condition for furnishing bank guarantee. The order further shows that the learned Additional Public Prosecutor appearing on behalf of the State had conceded to the legal position, and upon this, the revision was allowed setting aside the impugned order directing the learned Sessions Judge to reconsider the matter. In the present case also, the learned Public Prosecutor appearing for the State concedes to the</p>	



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legal position as submitted by the learned Counsel for the petitioner except the additional submission that a case has to be decided on the facts and circumstances of each case. However, he fairly conceded that as the legal point raised in the present petition is identical to the point raised in Criminal Revision Petition No.4 of 2002, a similar approach may be adopted in the interest of justice.

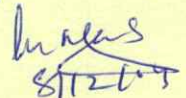
4. Admittedly, the legal issue in the present petition and in Criminal Revision Petition No.4 of 2002 is one and same as indicated above. Keeping this in view, I do not find any justification for a departure in approach in the present case.

5. Accordingly, the impugned order dated 24.11.2004 is set aside, thus remitting the matter to the learned Sessions Judge, South and West for dealing with the bail petition afresh, keeping in view the observations made above. The parties shall appear before the learned Sessions Judge, South and West on **9.12.2004**.

6. A copy of this order may be sent to the learned Sessions Judge (S&W) at Namchi, for information and needful action.


(A. P. Subba)
Judge

A copy of order along with the trial court record forwarded on 8/12/04 through sp. messenger.


8/12/04