

IN THE HIGH COURT OF SIKKIM

ORDER SHEET

...Criminal Revision Petition.....No. 14 of 2005

Ashim Kumar Chakfaboroty 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.	07.10.2005	<p>Heard Mr. Ajay Rathi assisted by Mr. K. B. Chettri, learned counsel for the accused/petitioner and Mr. J. B. Pradhan, learned Public Prosecutor for the State – respondent.</p> <p>2. This is a revision petition filed by the petitioner, for modification of the impugned order dated 5th March, 2005, passed by the learned Court of the Sessions Judge, Special Division – II in Criminal Misc. Case No.1 of 2005, granting bail to the accused and directing that he may be released, on his furnishing bail bond of Rs.2 lakhs with two sureties of like amount.</p> <p>3. The submission of Mr. Rathi is that, the surety amount of Rs. 2 lakhs, as fixed by the learned court below, is excessive and the same amounts to denial of bail. In support of his submission, the learned counsel pointed out that two co-accused, namely, Passang Tongden and Meenakshi Pradhan have already been released on bail bond of</p>	

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		<p>Rs.50,000/- with one surety of the like amount by the Court of the Chief Judicial Magistrate, East and North in Criminal Misc.Case Nos.171 and 172 of 2005. As such, it was his further submission that, besides the amount of bond being excessive, it is also discriminatory, in so far as the present petitioner has been directed to furnish security bond of very high amount which is beyond his capacity. Mr. J. B. Pradhan, the learned Public Prosecutor, in all fairness, conceded that the case against the present petitioner stands on the same footing as that of the two other co-accused, and that, there is no justification for treating the case of the petitioner on a different footing. It was, therefore, not disputed that the bond amount of Rs.2 lakhs fixed by the Court below is excessive besides being discriminatory.</p> <p>4. It is well settled that the amount of bail bond shall not be so excessive as to amount to denial of bail itself. The provision contained in Section 440 Cr.P.C. makes it clear that every bond executed under Chapter XXXIII shall be with due regard to the circumstances of the case and the same shall not be excessive.</p>	

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5. In view of the above legal position, I am of the opinion that the bail bond amount of Rs.2 lakhs fixed by the Court of the learned Sessions Judge, Special Division – II with direction to the accused to furnish two sureties of the like amount is very excessive in the circumstances of the case. There also seems to be no justification for maintaining a different standard in respect of the present petitioner whose case stands in the same footing as that of the two other co-accused.

Accordingly, I am of the view that a reduction in the amount of bond fixed in the present case is called for in the interest of justice. Hence, in order to bring the case of the petitioner on a par with that of the two ^{co-}accused, the bail bond amount of Rs.2 lakhs is reduced to the same amount Rs.50,000/- and it is ordered that the accused/petitioner may be released on furnishing one surety in the like amount to the satisfaction of the learned Sessions Judge, Special Division – II (in-charge). The impugned order dated 5.3.2005 passed in Criminal Misc. case No.1 of 2005 stands modified to the extent indicated above.

The revision petition is accordingly allowed.

Let a copy of this order be sent to the Court of



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		<p>the learned Sessions Judge, Special Div.-II (in-charge) for needful compliance.</p> <p style="text-align: center;"> (<u>A. P. Subba</u>) <u>Judge</u></p>	