



IN THE HIGH COURT OF SIKKIM

ORDER SHEET

...Bail Application.....No. 1 of ~~12x~~ 2007

...Shyam..Kumar..Subba.....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
01.	23.04.07	<p>Present : Mr. Tashi Norbu Basi, Advocate for the Petitioner.</p> <p style="text-align: center;">Mr. J.B. Pradhan, Public Prosecutor for the State.</p> <p style="text-align: center;">.....</p> <p>This is a Bail Application. The incident took place on 30th September, 2006. The accused is being prosecuted for having caused simple hurt with a Khukuri to one victim and grievous hurt with the same instrument to Doma Sherpa his erstwhile wife who is married to the second victim now. It appears that at midnight the accused found the two sleeping together and caused the hurt. Everything, of course, is under trial and whatever is said here is absolutely without prejudice.</p> <p style="text-align: center;">One Bail Application was rejected in</p>	

2006 by the learned Sessions Judge, *inter alia*, on the ground that the accused is a

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daily worker and might very well abscond if granted bail.

The second Bail Application was made in February, 2007. The Charge sheet has been filed and trial is going on. The two victims have already been examined. The second Bail Application was directed to be put up after the examination of the victims. This direction had been given before the examination actually took place, and after the examination, instead of praying for a date before the learned Sessions Judge, a fresh bail application has been made before the High Court.

In the State of Sikkim, there is hardly any backlog of cases, trial is going on and if the accused renders co-operation it will be soon over. The learned Sessions Judge is giving the case his best attention; interfering with the Sessions procedure now would be most unjust and demoralising. The discretion in regard to refusal of bail already exercised by the Sessions Judge is to be

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respected and such discretion might be used in the prevailing facts and circumstances of the case once again as and when a date is prayed for for hearing of the second Bail Application.

This order of refusal is without prejudice and shall not, in any manner interfere with the discretion of the learned Sessions Judge to grant bail or not to grant it in future. That the accused has one living daughter (another having unfortunately expired in October 2006) who is allegedly married to a son-in-law who has no work, can hardly be a primary matter in regard to grant of bail by the High Court. Bail Application is rejected.

(Ajoy Nath Ray, CJ)

A certified copy
of order forwarded
to Sessions Judge
E & N on 25/4/07
Mous
25/4/07