

GAHC040001742023



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

Case No. : BA 11/2023

1:Nongku Melong
S/o Shri Kaling Melong,
R/o Mirku Village, PO/PS Pasighat, District East Siang, Arunachal Pradesh. Ph. No.
9612934694 (M)

VERSUS

1:THE STATE OF AP
Represented by Public Prosecutor, State of Arunachal Pradesh.

Advocate for the Petitioner : Ojing Pada

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 21-02-2023

Heard Mr. O. Pada, learned counsel for the petitioner. Also heard Mr. J. Tsering, learned Public Prosecutor for the State of Arunachal Pradesh.

This is an application under Section 439 of the Code of Criminal

Procedure, 1973, for grant of bail to the accused, who has been languishing in jail hazot in connection with Pasighat P.S. Case No. 01/2023, registered under Section 20(b) of the NDPS Act.

It is submitted by the learned counsel for the petitioner, Mr. O. Pada, that the present accused was arrested on 04.01.2023 and for the last 47 days, he is behind the bar. Though the case has been registered under Section 20(b) of the NDPS Act, yet, from the contents of the F.I.R., it reveals that the case ought to have been registered under Section 21(b) of the said Act. Further, the I.O. has got sufficient time for custodial interrogation of the present accused and hence, further custodial interrogation is not at all necessary. At the same time, it is submitted by the learned counsel for the petitioner that the accused is a drug addict and at present, he is undergoing medication for de-addiction prescribed by the Rehabilitation Centre at OST Centre BPGH, Pasighat. It is further submitted that the accused is innocent and he was not involved in the alleged offence. However, it is a fact that the accused is a drug addict and used to obtain drug from various sources. Further it is submitted by the learned counsel for the petitioner that the accused has already appeared before the I.O. upon being served with a notice to him and accordingly co-operated in the investigation. The accused is a permanent resident of the addressed locality and hence there is no chance of absconding if the accused is enlarged on bail.

In this context, the learned Public Prosecutor, Mr. J. Tsering, has submitted that from the scanned copy of the Case Diary, it reveals that the statements of some of the witnesses and the accused have already been recorded by the I.O.

and from the statement of the accused, it reveals that he appeared before the I.O. and admitted that he was a drug addict and he obtained the drug from various sources. Further it is submitted that from the note of the I.O., it is seen that the FSL report has not yet been received by the I.O. and for which, the investigation is still in progress. In the same time, the I.O. has submitted bail objection on the ground that the case is at early stage of investigation and there is likelihood to arrest more accomplices and accordingly the I.O. has raised objection in granting bail to the present accused.

After considering the submissions of learned counsels of both sides, I have perused the Case Diary and it reveals that the statements of some vital witnesses as well as the accused have already been recorded by the I.O. and there is sufficient progress in the investigation. However, the I.O could not collect the FSL report till date. In the same time, it is also seen that the accused is behind the bar since last 47 days and thus, I am of the view that the I.O. has got ample opportunity to interrogate the accused in the custody and accordingly, I find that further custodial interrogation of the accused seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Special Judge, Pasighat, the accused, namely, Shri Obang Melong be enlarged on bail, subject to the following conditions:

- (i) that the accused shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) that the accused shall not, directly or indirectly, make 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 any police officer; and
- (iii) that the accused shall not leave the jurisdiction of the learned Special Judge, Pasighat, without prior permission.

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant