

GAHC040011652023



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

Case No. : BA/76/2023

Lihchoi Wangsu
W/o Tingchai Apesam,
Vill. Lawnu, PO/PS Kanubari, District Longding, Arunachal Pradesh.
Mobile No. 8974498106

VERSUS

THE STATE OF AP
Represented by Public Prosecutor.

Advocate for the Petitioner : 1 U Bori

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 04-09-2023

Heard Mr. T. Omo, the learned counsel for the petitioner
and Mr. G. Tado, the learned counsel for the State.

2. This is an application under Section 439 of the Code of Criminal Procedure, 1973 has been preferred by the petitioner, namely, Smti Lihchoi Wangsu, who is the wife of the present accused, namely, *Tingchai Apesam*, who has been detained behind bar since 02.08.2023 in connection with Kanubari P.S. Case No. 06/2023 under Section 18(c)/25 of NDPS Act, 1985 read with Section 34 of the Indian Penal Code.

3. The accusation in this case is that on 02.08.2023, one Gonye Hosai, ASI, lodged an FIR before the Officer-in-Charge of Kanubari Police Station, *inter alia*, alleging that on 02.08.2023 evening, on receipt of the information through reliable sources, conducted a Naka checking at TAH road Kanubari and one vehicle bearing Registration No. AS 04 Q 3557 was intercepted. On interrogation of the driver of the said vehicle, who happens to be the present accused, Opium weighing about 422 grams was recovered that was concealed by one Shri Tingtun Wangjen on TAH road side at RCC Culvert near Sh. Hira Arangham tea garden at Kamka village Kanubari. On receipt of the said the FIR, Kanubari P.S. Case No. 06/2023 was registered.

4. The learned counsel for the petitioner has submitted that the accused is the owner of the vehicle which was seized in connection with this case and he used to lend the car on hire and on the date of

incident, the car was hired by one, Shri Tingtun Wangjen at a fare of Rs.5,500/- only. It is submitted by the learned counsel for the petitioner that Opium which was recovered in the instant case was not recovered from conscious position of the petitioner. It is further submitted that the petitioner had already undergone 35 days of detention and he is a sole bread earner of the family and has to look after the family and is ready to cooperate in the investigation.

5. On the other hand, Mr. G. Tado, learned Additional Public Prosecutor Public Prosecutor has placed the case diary of Kanubari P.S. Case No. 06/2023 before the court and has vehemently opposed the grant of bail to the present accused on the ground that there are incriminating materials in the case diary which shows that the accused was in conscious position of the seized Contraband. However, learned Additional Public Prosecutor has fairly submitted that the investigation has progressed fairly and it is pending only for receipt of the FSL report.

6. Considering the submissions made by the learned counsel for the parties as well as considering the facts that the present accused has already undergone detention for last 35 days and meanwhile, investigation had fairly progressed, this Court is of the considered opinion that further custodial detention of the present accused may not be necessary for fair completion of the Kanubari

P.S Case No. 06/2023, if the accused cooperates in the investigation.

7. In view of the above, the accused person, namely, Tingchai Apesam is hereby allowed to go on a bail on furnishing a bail bond of Rs.30,000/- with a surety of like amount to the satisfaction of the learned Special Judge, (NDPS) Khonsa, subject following conditions;

- i) That the accused shall after his released on bail shall continue to cooperate with the Investigating Officer of Kanubari P.S Case No. 06/2023.
- ii) That the accused shall appear before the Investigating Officer as and when so required by the Investigating Officer for the sake of investigation of the case.
- iii) That the accused, Shri Tingchai Apesam, while remaining on bail, shall not directly or indirectly make any inducement, threat or promised to any person who is acquainted with the facts of the case so as to dissuade that person from disclosing such facts to the Investigating Officer or to the Court.

With the above observations, this instant bail application is disposed of.

Send back the case diary.

JUDGE

Comparing Assistant