

GAHC040011712023



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

Case No. : BA/79/2023

Oti Jomang
W/o Shri Talung Jomang,
Resident of Nyigam Colony Naharlagun, PO/PS Naharlagun, Papumpare District,
Arunachal Pradesh.
Contact No. 8787300236

VERSUS

the Central Bureau of Investigation
Through its Public Prosecutor.

Advocate for the Petitioner : Dicky Panging

Advocate for the Respondent : Marto Kato

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 19.09.2023

Heard Mr. D. Panging, learned counsel for the applicant.

Also heard Mr. M. Kato, learned standing counsel for the CBI as well as Mr. T. Tagum, learned standing counsel for the Health Department/TRIHMS, who has entered appearance on request made by this Court vide Order,

dated 13.09.2023.

This is an application, under Section 439 of the Cr.P.C., 1973, seeking bail of the accused, namely, *Shri Talung Jomang*, in connection with CBI Case NO. RC0172022A0009, under Sections 120(B)/406/409/420 IPC, *read with* Sections 7/8/13(2) of the Prevention of Corruption Act, 1908, on medical ground.

Vide the Order, dated 13.09.2023, this Court had passed the following order, which is quoted herein below:-

ORDER

Dated: 13.09.2023

Heard Mr. D. Panging, learned counsel for the applicant. Also heard Mr. M. Kato, learned Standing counsel for the Central Bureau of Investigation (CBI), representing the sole respondent.

This is an application under Section 439 of the Criminal Procedure Code, 1973, seeking bail of the accused applicant, namely, Shri Talung Jomang, in connection with CBI Case No. RC0172022A0009, under Sections 120(B)/406/409/420 IPC, read with Sections 7/8/13(2) of the Prevention of Corruption Act, 1988, on medical ground.

In support of the bail application, the applicant has enclosed a Referral Form for Treatment Outside Arunachal Pradesh, dated 01.08.2023, vide Memo No. D6/03/2432-33, issued by the Chief Medical Superintendent, Tomo Riba Institute of Health & Medical Sciences, Naharlagun.

In the aforesaid Referral Form for Treatment Outside Arunachal Pradesh, the accused Shri Talung Jomang, has been referred to Spine Surgeon/Neuro Surgeon/Orthopaedic, North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences (NEIGHRIMS), for the recommended intervention – “not legible” by Doctor Taye Murtem, Junior Specialist, TRIHMS.

The Referral Form for Treatment Outside Arunachal Pradesh has been enclosed at

page no. 39 of the Bail Application.

In order to take a final decision in the instant Bail Application, it is deemed appropriate to seek instructions from Doctor Taye Murtem, Junior Specialist, TRIHMS as well as the Chief Medical Superintendent, TRIHMS, Naharlagun, as to whether the Referral Form for Treatment Outside Arunachal Pradesh of the accused, enclosed by the petitioner at page 39 of the Bail Application, has been issued by the Chief Medical Superintendent, TRIHMS, Naharlagun on the accused Shri Talung Jomang, having been examined and referred to NEIGHRIMS by Doctor Taye Murtem, Junior Specialist, TRIHMS.

In the instructions to be given by the Chief Medical Superintendent, TRIHMS, Naharlagun as well as Doctor Taye Murtem, Junior Specialist, TRIHMS, it shall also be indicated whether the recommend intervention, for which the accused Shri Talung Jomang has been referred to NEIGHRIMS can be performed at TRIHMS as well, or not.

To receive the necessary instructions as above, Mr. T. Tagum, learned standing counsel for the Health Department shall do the needful, who shall be informed by Mr. D. Panging, learned counsel for the applicant and Mr. M. Kato, learned Standing counsel for the CBI, along with a copy of this order as well as a copy of the bail application.

List it on 19.09.2023.

Pursuant to the Order, dated 13.09.2023, Mr. T. Tagum, learned standing counsel for the Health Department/TRIHMS has produced the letter, dated 16.09.2023, written to him by the Chief Medical Superintendent, TRIHMS Hospital, Naharlagun, vide no. TRIHMS/MLC-13/83/Pt-III/3412-17, wherein, it has been stated that recommended medical intervention, for which, the accused was referred to NEIGHRIMS, Shillong by Dr. Taye Murtem, Junior Specialist (Orthopedics) TRIHMS was issued at the insistence of the accused; whereas, the required medical intervention can be very well performed at TRIHMS, Naharlagun as well.

In view of the above, it is found that the instant bail application on medical ground has been filed by the applicant without candidly disclosing the correct facts.

In that view of the matter, the instant bail application is hereby, rejected.

A copy of the letter, dated 16.09.2023, written to the learned standing counsel for the Health Department/TRIHMS by the Chief Medical Superintendent, TRIHMS Hospital, Naharlagun, vide no. TRIHMS/MLC-13/83/Pt-III/3412-17 is retained on record and shall be marked as 'X' for identification.

JUDGE

Comparing Assistant