

GAHC030000232023



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

Case No. : Crl.Rev.P./2/2023

Sh. Vanlalnghaka
S/o Bali Kumar
R/o Tuichawngtlang, Lawngtlai District, Mizoram.

VERSUS

The State of Mizoram and 2 Ors.
r/b the Secretary to the Govt. of Mizoram, Home Department, Aizawl, Mizoram.
2: The Superintendent of Police
Lawngtlai

3: The Officer-in-Charge
VASEI Police Station

Advocate for the Petitioner : Mr. Johny L Tochhawng, Legal Aid Counsel

Advocate for the Respondent : P.P./Addl.PP, Mizoram

B E F O R E
HON'BLE MRS. JUSTICE MARLI VANKUNG
O R D E R

01.02.2023
(Wednesday)

Heard Mr. Johny L. Tochhawng, learned Legal Aid Counsel appearing for the petitioner alongwith Ms. Mary L. Khiangte, learned Addl. Public Prosecutor for the

State respondents.

2. This is an application submitted under 439Cr.P.C. r/w Section 440 Cr.P.C and Section 482 of Cr.P.C. for the reduction/alteration of bail conditions imposed by the learned Addl. District & Sessions Judge, Siaha vide Order dated 29.11.2021 in Bail Application No.16/2021, A/o VASEI PS C/No. 1/2020 dated 12.01.2020.

3. The brief facts of the case is that the petitioner along with co-accused Doniha and Chandro Bahadur was arrested on 12.01.2020 for allegation of committing offence under section 302/201/34 on his suspected involvement with the death of a Lalrawnlina who was missing from 03.01.2020 and whose death body was found on 11.01.2020 at Nghalim-lui river between Vaseikai and Nghalimlui village.

4. The case was registered as VASEI PS C/No. 1/2020 dtd. 12.01.2020 under Section 302/201/34 I.P.C. The petitioner had earlier submitted a bail application before the Court of additional District & Sessions Judge, Siaha, Mizoram and the bail application was registered as Bail Application No.16/2021. However, though the bail was granted to the petitioner vide Order dated 29.11.2021, the learned Trial Court had granted bail with a bail bond of Rs.1,00,000/- and with the condition that he shall produce a surety of the like amount who shall be a government servant not below the rank of UDC. If UDC or above cannot stand a surety bail bond of Rs. 1,00,000/- shall be deposited. That he had then submitted an application before the trial court for reduction of the bail bond and conditions imposed which was rejected vide order dated 09.01.2022 on the grounds that the offence was of heinous nature and the trial

was almost over and that he had no power to reduce the conditions imposed being the same court.

5. The Legal Aid counsel for the petitioner submits that due to the stringent bail bond and conditions imposed by the learned Trial Court the petitioner who was granted bail on 29.11.2021 he is still in jail, since he is poverty stricken and has no close relatives residing in Siahia who is not below the rank of UDC.

6. The Learned Legal Aid counsel submits that the stringent conditions imposed by the Trial Court while granting bail on 27.05.2020 to the petitioner may be reduced or altered so that he can be released from jail. That the petitioner will not abscond or tamper with the evidence if out on bail.

7. The learned Legal Aid Counsel has also cited the Order of this Court in **XXX Guwahati versus In Re- The State of Assam and others W.P(C) (Suo Moto) No. 8 of 2018**, wherein the Division Bench in its Order dated 28.08.2022 had addressed the matter of the accused/jail inmates who were granted bail by the Court but were still languishing in jail for a long time due to stringent bail bond imposed.

8. Ms. Mary L. Khiangte, learned Addl. Public Prosecutor has not objected to the reduction of the conditions imposed by the learned Trial Court. Having heard the submissions made by both the parties, and on perusal of the documents on record, it is seen that the case is in the evidence stage, wherein the trial court in its order dated 09.01.2022 had observed that the trial is almost over. The petitioner is charged under section 302/201/34 I.P.C. has been languishing in jail for over a year after being

granted bail which makes it clear that the petitioner cannot meet the stringent bail bond conditions imposed by the trial court.

9. The Division Bench of this Court in its order dated 06.09.2022 in **XXX Guwahati versus In Re- The State of Assam and others (Supra)** has noted that *"In light of the aforesaid, the respective learned counsels appearing for the respective states shall produce the data of further progress in the matter and see that the jail inmates, who have already been granted bail and are still languishing in jail, are released."*

10. Section 440 Cr.P.C provides that "The amount of every bond executed under this chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive.

11. In view of the above, this court is of the considered opinion that the entire object of imposing stringent conditions is to ensure that the undertrial, on his release on bail, does not flee during trial. Thus, this Court finds that it fit to alter the conditions imposed by the Trial Court on 29.11.2021 while granting bail to the petitioner to the extent that the bail bond amount shall be reduced from Rs.1,00,000/- to Rs.80,000/- and *'the sureties shall be a permanent resident of Saiha or Lawngtlai District' instead of "UDC or above"* The bail bond shall be executed by the learned trial court. The release on bail shall also be under the condition that the petitioner shall attend court regularly and shall not attempt to tamper with the evidence or influence the remaining witnesses during trial.

12. Accordingly, the Crl. Rev. P. No.02/2023 stands allowed and disposed.

13. In appreciation of the assistance provided by Mr. Johny L. Tochwawng, Legal Aid Counsel his fee is fixed at Rs.7,500/- (*Rupees Seven thousand five hundred*) only to be paid by the Mizoram State Legal Services Authority on production of the copy of this Order.

JUDGE

Comparing Assistant