

GAHC030000902023



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

Case No. : Bail Appln./5/2023

Biakneimawii
Phunchawng, Aizawl, Mizoram

VERSUS

State of Mizoram
Aizawl

Advocate for the Petitioner : Ms. Lalngaihsaki Fanai

Advocate for the Respondent : Ms. Mary Lalruatkimi Kiangte

ORDER

Date : 24.02.2023

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

Heard Ms. Lalngaihsaki Fanai, learned counsel appearing for the accused/petitioner as well as Ms. Mary L. Kiangte, learned Addl. P.P, Mizoram appearing for the State respondent.

By this application under Section 439 Cr.PC, the accused/petitioner namely **Smt. Biakneimawii** has prayed for grant of bail in connection with **Excise Case No. 184/22 dated 02.11.2022** under Section **21(b)** of the ND&PS Act, 1985.

The FIR lodged by one Ruth Lalruatpuii, ASI of Excise & Narcotics Department, Aizawl reveals the allegation that on 01.01.2022 at about 11:10 P.M at Dinthar Hipheia road, she recovered and seized 26 grams of suspected heroin kept in 2 soap cases inside a steel almirah safe in the house of one Laldinpuii. 4 (four) numbers of accused persons were arrested from the place. During preliminary investigation, one accused, namely, Hmingthantluangi informed that the present accused/petitioner had been in possession of some contraband articles in her house at Phunchawng. Accordingly, the informant along with her Police team went to the house of the accused/petitioner, wherefrom 67 grams of suspected heroin kept in 5 soap cases were recovered and seized and the present accused/petitioner was also arrested by the Excise officials.

Perused the bail application and the copy of documents annexed therewith. Ms. Mary L. Khiangte, learned Addl. P.P submits objection on the ground of serious nature of the case and the possibility of her jumping out during trial.

It is noticed that the accused/petitioner, who is a woman, has been in custody since 02.11.2022. It is noticed from the seizure memo that the quantity of the seized contraband falls within the intermediate quantity under the ND&PS Act and as such, the rigors of Section 37 are not applicable to her case.

It is submitted that the accused/petitioner has been detained in judicial custody for 113 days and that she has been suffering from certain diseases as it appears from the averments made in the petition along with the medical documents annexed thereto.

The learned Addl. P.P submits that there is no evidence of criminal antecedents of the accused/petitioner. The accused/petitioner is also a resident of Phunchawng, Aizawl under the Bawngkawn Police Station, Aizawl District, Mizoram. Therefore, this Court is of the considered opinion that if the liberty of bail is granted to the accused/petitioner, there is no chance of her fleeing from justice and influencing the witnesses, who are listed in the Charge-sheet.

Accordingly, it is provided that the accused/petitioner named above shall be released on bail of Rs. 50,000/- (Rupees Fifty Thousand) with one surety of like amount to the satisfaction of learned Special Judge (ND&PS Act), Aizawl subject to the following conditions-

- (i) That the accused/petitioner shall continue to appear before the learned Trial Court on all the dates to be fixed from time to time till the case is disposed of;
- (ii) That the accused/petitioner shall not directly or indirectly make any inducement, threat or promise to any witness who is acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court;
- (iii) The bailer shall be a resident of Aizawl certified by the local council of the said area; and
- (iv) That the accused/petitioner shall refrain from committing similar offences in future, of which she is accused or suspected of commission.

Breach of any of the above conditions shall entail cancellation of the bail in accordance with law.

JUDGE

Comparing Assistant