

GAHC030000982023



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

Case No. : Bail Appln./6/2023

Sh. Abdul Kayum r/b Abdul Kadir
S/o Adbul Nair
House No. C-46/4, Saron Veng, Taitesena Section, Aizawl

VERSUS

The State of Mizoram
Aizawl.

Advocate for the Petitioner : Mr. K Roland

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

ORDER

Date : 10-03-2023

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG

Heard Mr. Victor L. Ralte, learned counsel for the applicant along with Ms. Mary L. Khiangte, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 r/w Section 37 of the ND&PS Act, 1985 for enlarging the accused/applicant on bail.

The learned counsel for the applicant/accused submits that the applicant/accused is presently hospitalized and is undergoing operation and has

submitted an additional affidavit showing the medical certificate of the Doctor from LRM Hospital, wherein it states that the applicant/accused was operated on 09.02.2003 and is currently receiving ongoing treatment and that investigation is still going on, as he is still having pain and discomfort.

The learned counsel for the applicant/accused further submits that the applicant/accused is a Cement Mistiri and has been working in Aizawl residing at Saron Veng, since the year 2007. That the applicant/accused was arrested on 30.09.2022 and a case was registered against him and a co-accused Sh. Ajir Uddin being numbered as EXN-150/2022 dated 01.10.2022 under Section 22(c) of the ND&PS Act, 1985. A charge sheet has been submitted against them during the month of November, 2022 and the Trial is yet to begin. Their case is registered as CrI.Tr.(Ex.) No. 1836/2022 under Section 22(c) of the ND&PS Act before the Court of learned Special Judge, ND&PS.

The learned counsel further submits that the applicant/accused is innocent of the charge and on perusal of the charge sheet, it is apparent that the applicant/accused was not involved in possession of the seized 10,050/- tablets of Methamphetamine i.e., 1.005 Kgs. That the seized articles belonged to his friend Pasit and Pi Muani, who have both fled away. That the instant applicant/accused had only accompanied the co-accused Ajir Uddin to Thuampui Veng and has no involvement with the seized contraband substance. The co-accused Ajir Uddin in his statement recorded under Section 161 Cr.P.C has also not implicated the instant applicant/accused in any way.

Ms. Mary L. Khiangte, learned Additional Public Prosecutor, on the other hand strongly objected to the release of applicant/accused on bail submitting that the seized article is 10,050/- tablets of Methamphetamine, which is a dangerous drug and

the charge sheet also mentions that the applicant/accused had accepted Rs. 5000/- from the co-accused Ajir Uddin, which clearly shows that he is also involved in the matter since there is no reason for receiving the sum of Rs. 5000/- simply to accompany him to Thuampui Veng.

She further submits that the offence is a serious offence since he has been charged under Section 22(c) of the ND&PS Act and it is likely that the applicant/accused if released on bail would abscond, since he is not a permanent resident of Aizawl but is actually from Silchar. That Section 37 of the ND&PS Act requires the Court to be convinced that the applicant/accused is likely to be innocent and there is no such *prima facie* evidence in the charge sheet."

On considering the submissions made by both the parties, this Court finds that even though the learned counsel for the applicant/accused has shown that the applicant/accused is undergoing treatment at a private LRM Hospital. It is seen that the applicant/accused is being given proper treatment in the hospital and there is no ground for his release on bail, since he can be given the required medical treatment while in judicial custody.

On perusal of the documents on record, it is also seen that the applicant/accused has been charged under Section 22(c) of the ND&PS Act for his alleged involvement in the seizure of 10,050 tablets of Methamphetamine, which is a drug under ND&PS Act and it's misused has serious and harmful effect on the society. It is also seen that there could be a possibility of the involvement of the applicant/accused, since the charge sheet has mentioned that he has received Rs. 5000/- from the co-accused, Mr. Ajir Uddin.

In view of the above observations, this Court finds that the involvement of the applicant/accused cannot be completely ruled out at this stage and considering the

fact that the instant accused is not a permanent resident of the State of Mizoram, there could be a chance of him fleeing from justice if released on bail at this stage. The seized article is also 10,050 tablets of Methamphetamine which is a large quantities.

In view of the above reasons, the Bail Application No. 6/2023 is dismissed and accordingly disposed.

JUDGE

Comparing Assistant