

GAHC030002032023



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

Case No. : Bail Appln./12/2023

Smt. Laldinsangi
New Ngharchhip, Hnahthial District, Hnahthial, Mizoram

VERSUS

State of Mizoram
Aizawl

Advocate for the Petitioner : Mr. T Lalnunsiana

Advocate for the Respondent : Ms. Mary Lalruatkimi Kiangte, Addl. PP, Mizoram

ORDER

B E F O R E

HONOURABLE MR. JUSTICE NELSON SAIO

19.07.2023

Heard Mr. J.H. Ricky Lalruatfela, learned counsel for the applicant and Ms. Mary L. Kiangte, learned Additional Public Prosecutor for the State.

[2.] By filing this application under Section 439 Cr.PC, the applicant prays for grant of regular bail to her. The applicant contends that she was arrested on 14.10.2022 at 3 p.m. by the Excise & Narcotics (Anti Narcotic Squad), Mizoram,

Aizawl, for alleged possession of 6.122 kilograms of red and green coloured tablets suspected to be Methamphetamine. The applicant applied for bail by filing Bail Application No. 1410/2022 before the Special Court but however, the application was rejected vide Order dated 13.12.2022.

[3.] Mr. J.H. Ricky Lalruatfela, learned counsel for the applicant submits that the applicant is not the owner of the seized article and that she had only accompanied her friend on the date they were arrested. The learned counsel submits that the actual owner of the seized article is one Sh. Richard Lalhmingmawia and he has been granted bail by the Trial Court. The learned counsel submits that the applicant also has serious health issues as she is suffering from uncontrolled diabetes. He submits that the applicant requires proper medications and diet and while being lodged in jail, she cannot avail of the same which has resulted in deterioration of her health. He submits that the applicant may therefore be released on bail.

[4.] The learned counsel further submits that although trial has begun but out of the 8 (eight) Prosecution Witnesses cited by the prosecution, only 1 (one) Prosecution Witness has been examined so far. It therefore, appears that the trial will not conclude at an early date and in the event, the applicant is acquitted from the charge after many years, gross injustice would be caused to

her and she will suffer irreparable loss.

[5.] In support of his submission, the learned counsel has relied upon the following authorities:-

i) State of U.P. vs. Atique Ahmad, (2002) 9 SCC 401

ii) State of Kerala vs. Raneef, (2011) 1 SCC 784

[6.] Ms. Mary L Khiangte, learned Addl. Public Prosecutor, on the other hand, submits that the applicant cannot claim that she is not involved with the recovery of the seized article, inasmuch as, in her submission recorded during the investigation she has admitted that she along with one Edenmawii were planning to dispose of the seized article which belonged to one Sh. Richard Lalhmingmawia. She further submits that pursuant to the investigation, the investigating officer upon finding a prima facie case against the applicant had submitted the charge-sheet and now the trial has begun. She submits that the present status of the trial is that the prosecution witnesses are being examined and that within a reasonable time, the trial will concluded and pending such conclusion, the applicant may not be released on bail. She further submits that since the applicant is able to get proper treatment even as she is lodged in jail by being sent to be Civil Hospital, no special ground has been made out for

grant of bail for health reasons.

[7.] I have heard the submissions made by the learned counsels for the rival parties and I have perused the materials available on record.

[8.] From a perusal of the statements made by the 3 (three) accused persons involved in Excise Case Ex-N 162/2022 dated 15.10.2022 under Section 22(c) of the ND&PS Act, 1985, 6.122 kgs of suspected methamphetamine was recovered from a bag which was being carried by the co-accused Edenmawii. Smt. Edenmawii and she was accompanied by Smt. Laldinsangi, the instant applicant. According to their statements, the seized article belonged to Sh. Richard Lalhmingmawia who is also one of the accused person. The seized article was to be disposed of with the help of the applicant and Smt. Edenmawii and that it was at that moment that they were arrested. Therefore, prima facie there appears to be materials available against the applicant showing that she has violated the relevant provisions of the ND&PS Act. The Apex Court in *State of Kerala vs. Raneef (supra)* observed that in dealing with the bail application, one important factors which should be taken into consideration by the Court is the delay in conclusion of the trial. In the present case, as can be seen, the trial is in motion and at least one prosecution witness has already been examined. The applicant was arrested on 14.10.2022 and the charge-sheet was filed on

10.11.2022. Therefore, it cannot be said that the investigation in the trial is progressing very slowly and there is delay in conducting the trial proceedings. Therefore, the authority referred to by the learned counsel for the applicant is found to be not applicable to the present case.

[9.] The other case i.e., *State of U.P vs Antique Ahmad (supra)* relied upon by the learned counsel for the applicant is in respect of an appeal filed by the State of U.P assailing the order passed by the High Court granting short-term bail on medical grounds. The Apex Court did not interfere with the order of the High Court but made an observation that the order of the High Court granting short-term bail should not be cited as a precedent in any other case. In further observed that if the applicant therein files any application for bail, the same should be considered in its own merit and not influenced by the order passed by the Supreme Court. The said decision is found to be not relevant to the instant case. In the present case, the applicant has claimed that her medical condition is critical and therefore, bail should be granted to her on medical grounds. However, from a perusal of the documents annexed to the bail application, it is seen that the applicant is getting regular treatment and she is prescribed medication by both the Jail doctor as well as in the Civil Hospital, Aizawl. Therefore, considering the seriousness of the allegation made against

the applicant, this Court is not inclined to grant bail to the applicant.

[9.] Accordingly, the Bail Application stands rejected and disposed of.

JUDGE

Comparing Assistant