

GAHC030002182023



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

Case No. : AB/5/2023

Sh. C. Lalfakawma
Khatla, South, Aizawl, Mizoram

VERSUS

State of Mizoram
Aizawl

Advocate for the Petitioner : Mr Lalfakawma

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

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO
ORDER

1st June, 2023

Heard Mr. Lalfakawma, learned counsel for the petitioner who submits that by filing this application under Section 438 of the CrPC, the petitioner prays for grant of anticipatory bail. The learned counsel submits that the petitioner apprehends his arrest in connection with ACB PS Case No. 1/2022 dated 28.02.2022 registered under Section 409 IPC read with Section 13(1)(a)(b) and Section 13(2) of the Prevention of

Corruption Act, 1988 (PC Act). He submits that the allegation against the petitioner is that he had demanded a sum of Rs. 17 lakhs from one Mr. F. Lalroenga and also had taken illegal gratification of Rs. 3 lakhs from one Mr. Vanhmingthanga. He however submits that the amount was borrowed by the petitioner and has been repaid by him already. Further, as per the statement made by Mr. Vanhmingthanga, there was no coercion on the part of the petitioner and the amount of Rs. 3 lakhs was given by him on his own free will. The learned counsel submits that the chargesheet has been filed by the Investigating Authority and there is no question of the petitioner influencing any of the witnesses or tampering with the evidence on the allegation made against him. He submits that the petitioner is currently working as Junior Engineer in the Public Works Department, Government of Mizoram and that he has been cooperating with the entire proceedings, as and when required to do so. Therefore, in the event he is arrested, being a Government servant, he is bound to suffer irreparable loss. The learned counsel submits that the petitioner is also suffering from hyper-tension and diabetes related to kidney failure and therefore, requires constant medical attention. He submits that in view of the filing of the chargesheet, the petitioner has every apprehension that unless protection is granted to him, he may be arrested by the Investigating Authority any moment. He therefore submits that the prayer for anticipatory bail may be granted by this Court.

2. Ms. Mary L. Khiangte, learned Addl. Public Prosecutor on the other hand submits that from the statement recorded by the Investigating Officer, it clearly

transpires that there is *mens rea*. It is only due to the investigation initiated that the petitioner has taken steps to repay the money. She however submits that the investigation is now complete and the chargesheet having been filed, further process from the Trial Court is awaited.

3. Upon hearing the learned counsels for the rival parties and upon perusal of the material available on record, I am inclined to allow the prayer for grant of anticipatory bail. Accordingly, the petitioner is granted anticipatory bail in terms of the conditions already imposed by this Court while granting ad interim pre-arrest bail vide Order dated 28.04.2023. In other words, the Order dated 28.04.2023, in so far as grant of anticipatory bail to the petitioner is concerned is made absolute.

4. Anticipatory bail stands disposed of.

JUDGE

Comparing Assistant