

GAHC030002502023



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

Case No. : Bail Appln./17/2023

Smt. Lalramsangliani
Bethlehem, Aizawl, Mizoram

VERSUS

State of Mizoram and Anr.
Aizawl: The Officer-in-Charge
Anti Narcotics Squad
Commissionerate of Excise and Narcotics
Aizawl

Advocate for the Petitioner : Mr. J H Ramneihmawia

Advocate for the Respondent : Ms. Mary Lalruatkimi Khiangte, Addl. PP., Mizoram for R1 and R2

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

01.06.2023

(Thursday)

Heard Mr. J.H. Ramneihmawia, learned counsel for the petitioner who submits that by filing this application under Section 439 Cr.P.C, the petitioner prays for grant of bail. He submits that the petitioner was arrested on 13.02.2023 for alleged recovery of 22 gms. of heroin from the house of one Smt. Lalrinpuii who is the elder sister of the petitioner.

As a result, Excise Case No.N-45/2023 dated 14.02.2023 under Section 21(b) of the ND & PS Act, 1985 was registered. Since her arrest, the petitioner is in jail till date. He submits that the investigation has already been completed and charge-sheet was filed on 12.04.2023.

The learned counsel submits that in view of the completion of the investigation, there is no chance for the petitioner to interfere in the allegation against her if she is released on bail. He submits that the alleged drug has not been recovered from the possession of the petitioner and therefore her detention in jail is also illegal. He further submits that the petitioner has a 2 years old child whom she is still breast feeding and therefore, it is not conducive for her be in jail with her minor child. He therefore submits that the petitioner may be released on bail.

Ms. Mary L. Khiangte, learned Addl. Public Prosecutor on the other hand submits that the petitioner is a resident of Vaphai in a District of Champhai which is very near to the International Border with Myanmar. Since the border is very porous, there is every chance for the petitioner to abscond, if released on bail.

The learned Addl. Public Prosecutor referring to the seizure and arrest memo submits that the seized article was recovered from the used baby diaper carried by the petitioner and therefore, even if the petitioner pleads that the same does not belong to her, she is very much aware about the contraband substance herself. She is therefore equally liable to be prosecuted along with the actual owner for carrying the contraband substance under the provision of the ND & PS Act. In view of such discovery and seizure from her, bail should not be granted to the petitioner.

I have heard the submissions made by the learned counsel for the rival

parties and I have perused the materials available on record. As already stated by the learned Addl. Public Prosecutor the seizure and arrest memo speaks for herself. Further, the complaint sheet submitted by the investigating officer clearly reveals that during investigation and the examination of the petitioner along with the co-accused person who happens to be her elder sister, it was found that both of them have been selling heroin since the year 2022 and the heroin has been supplied by one Smt. Lalrinnungi from across the border. Therefore, upon due consideration, I find that there are reasonable grounds to belief that the petitioner is guilty of an offence under the relevant section of the ND & PS Act. As such, I am not inclined to grant bail to the petitioner.

The bail application stands rejected. It is however made clear that any observation made in this order is only for the purpose of considering the instant bail application.

Bail application is thus disposed of.

JUDGE

Comparing Assistant