

GAHC030003062023



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

Case No. : Bail Appln./23/2023

Sh. K. Ronghaka
S/o K. Thanguta (L)
R/o House No. 63, Khuangleng, Champhai District, Mizoram.

VERSUS

The State of Mizoram
Aizawl.

Advocate for the Petitioner : Ms. Lalngaihsaki Fanai

Advocate for the Respondent :

B E F O R E
HON'BLE MRS.JUSTICE MARLI VANKUNG
ORDER

12.06.2023

Heard Ms. Lalngaihsaki Fanai, learned counsel for the petitioner along with Mrs. Linda L. Fambawl, learned Additional Public Prosecutor.

2. This is a bail application filed under Section 439 Cr.P.C. for release of the accused petitioner on bail. It is seen from the office note that copy of the bail application was served upon the learned Additional Public Prosecutor for the State respondents on 09.06.2023. In view of the above, this Court finds that notice has

been served upon the State respondents.

3. The learned counsel for the petitioner submits that the petitioner and his taxi bearing Registration No. MZ04 A/7356 was detained by CADS on 07.10.2022 and he was arrested by the Excise & Narcotics Personnel on the same day at 3:00 AM along with the co-accused Lalrinawma, who was a passenger in his taxi for alleged possession of 128 grams of suspected heroin. The said suspected heroin was recovered from the dashboard of the taxi under the steering wheel of the taxi, and from a rucksack.

4. The learned counsel for the petitioner submits that the petitioner was innocent of the charge framed against him under Section 21 (b) of the ND&PS Act in Excise Case No. N-156/2022 dated 07.10.2022 and submits that the seized article belonged to the co-accused Lalrinawma, who was the passenger of the taxi belonging to the petitioner. The learned counsel submits that the co-accused Lalrinawma has made a statement to the effect that the petitioner was innocent of the charge under Section 21 (b) of the ND&PS Act since the seized articles belonged to him, being the passenger of the taxi.

5. The learned counsel further submits that the co-accused Lalrinawma, who is the owner of the seized article had hired the taxi of the petitioner from Champhai to Aizawl for Rs. 20,000/- and the petitioner had no knowledge that the seized articles were kept in his vehicle. She further submits that the petitioner is the sole bread earner of his family and has no previous case of such nature against him. She has also produced a letter written by the President, Village Council, Khuangleng certifying that the petitioner was of good character and was not known to be involved in cases connected with the contraband substances. The President, Village Council, Khuangleng also certified that the petitioner was looking after his mother, who was 80 years old

and a brother having special needs. That the petitioner was a permanent resident of Khuangleng Village and there was no possibility of him absconding during the Trial of the case. She has also relied upon the judgment and order passed by a Co-ordinate Bench of this Court in Bail Application No. 18/2023 dated 06.06.2023, where this Court had granted bail to the petitioner in a similar situated case, wherein the contraband substance was seized from the vehicle driven by the petitioner.

6. Mrs. Linda L. Fambawl, learned Additional Public Prosecutor submits that on perusal of the statements recorded by one of the witnesses, who had recovered the suspected heroin from the vehicle has stated that the petitioner along with the co-accused confessed that they carried the heroin and that they took out 7 (seven) packets of suspected heroin packed inside 7 (seven) soap boxes from a black rucksack and another 3 (three) packets of suspected heroin also packed inside 3 (three) soap boxes from a dashboard underneath a steering wheel of the taxi.

7. The learned Additional Public Prosecutor submits that since 3 (three) packets were recovered from the dashboard underneath a steering wheel of a taxi, it is likely that the petitioner had knowledge that he was carrying the contraband substances and thus, objected to the release of the petitioner on bail.

8. Having heard the submissions made by both the parties, this Court finds that the co-accused in this case had himself mention that the petitioner was not aware of the seized suspected heroin since he had hired his taxi for Rs. 20,000/- for travelling from Champhai to Aizawl and the petitioner had no knowledge of him carrying the contraband substances in his taxi. It is also noted that the VCP of Khuangleng Village had testified the good character of the petitioner and that the petitioner has no previous case of such nature.

9. For the above reasons, this Court find it fit at this stage to grant bail to the

petitioner with a bail bond of Rs. 30,000/- along with a surety, who shall be to the satisfaction of the learned Special Judge, ND&PS Act.

10. Accordingly, Bail Application No. 23/2023 stand allowed and disposed of.

JUDGE

Comparing Assistant