

GAHC030003942023



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

Case No. : Bail Appln./29/2023

Sh. Lalrammawia
Champhai Venglai, Mizoram

VERSUS

State of Mizoram
Aizawl

Advocate for the Petitioner : Mr K Laldinliana
Advocate for the Respondent : P.P./Addl.PP, Mizoram

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE
ORDER

Date : 31-07-2023

Heard Mr. K. Laldinliana, learned counsel for the applicant accused. Also heard Ms. Mary L. Khiangte, learned Additional Public Prosecutor for the State of Mizoram.

This is an application under Section 439 Cr.P.C. praying for grant of bail to the applicant accused namely Sh. Lalrammawia in connection with Special Narcotics P.S. Case No. 32/2023 under Section 21(b)/25 of ND&PS Act, 1985.

The case of the applicant accused is that he was arrested by the Special Narcotics personnel on 14.06.2023 on the allegation of having possessed 38.840 grams of yellowish powder suspected to be Heroin. Accordingly, he was booked under

Section 21(b)/25 of ND&PS Act, 1985.

The accused applicant moved the bail application before the Special Court, ND&PS Act, which was disposed of on 26.06.2023 by rejecting the bail application. Hence, this present bail application before this Court.

Mr. K. Laldinliana, learned counsel for the applicant accused submits that the accused applicant is nowhere involved in the present case and is innocent, inasmuch as, he has only allowed his friend Mr. Zosangzuala to use his mobile phone for money transaction without having any knowledge about the present case. The same is supported by the acknowledgement issued by the other co-accused namely, Mr. Zosangzuala, Mr. K. Thangthuama and Mr. Lalremruata, which was censored by Jailer, Central Jail, Aizawl.

Mr. K. Laldinliana, learned counsel for the applicant accused, while referring to the charge sheet submits that the money transaction was allowed to be made in the account of the applicant accused, as his friend does not have phone or bank account which is also clearly recorded in the charge sheet. Therefore, there is no involvement of the accused applicant in the present case. He further submits that the accused applicant is suffering from various ailments including the heart disease for which he is presently under medical treatment and admitted at Agape Multispeciality Hospital at Chanmari, Aizawl. Therefore, the applicant accused may be released on bail if not on merit, at least on medical ground.

In support of his submission, he has relied the judgment in the case of *Kheirun Bibi Vs. State of Manipur*, reported in (1994) 1 GauLR 295, Imphal Bench.

Ms. Mary L. Khiangte, learned Additional Public Prosecutor submits that as per the charge sheet there is a clear involvement of the accused applicant as it reveals

that the applicant accused was involved since 2008 in related case and this is the second occasion the applicant accused has been arrested.

She further submits that he was arrested and charge sheeted in Case No. 13/2021 under Section 21(b)/25/29 of the ND&PS Act. Therefore, no ground has been established for granting bail to the accused applicant.

On perusal of the materials available on record, it is seen that the accused applicant along with co-accused were arrested and charge sheeted in connection with Khawzawl P.S. Case No. 13/2022 under Section 21(b)/25/29 ND&PS Act. In the present case also there are incriminating materials against the accused applicant.

Hon'ble Supreme Court in the case of *Union of India Vs. Ram Samujh*, reported in (1999) 9 SCC 429 has held that those persons who are dealing in narcotic drugs are instrumental in causing death or in inflicting death-blow to a number of innocent young victims, who are vulnerable. It causes deleterious effects and a deadly impact on the society. They are a hazard to the society, even if they are released temporarily in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely. Reason may be large stake and illegal profit involved.

Having considered the submissions of the learned counsel for the parties and the materials available on record, this Court is of the view that no ground for release of the accused applicant has been made out and therefore, this bail application is rejected and dismissed at this stage.

However, the Jail Authorities are directed to extend medical treatment to the accused, if not already extended.

JUDGE

Comparing Assistant