

GAHC030004052023



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

Case No. : I.A.(Crl.)/41/2023

Sh. Suakngura
P and E Veng, Serchhip, Mizoram

VERSUS

State of Mizoram and Anr.
Aizawl:Sh. C. Laltanpui

Advocate for the Petitioner : Mr B Lalramenga

Advocate for the Respondent : Mrs. Linda L Fambawl, Addl. PP, Mizoram for R1

Linked Case : Crl.A./24/2023

Sh. Suakngura
P and E Veng
Serchhip
Mizoram

VERSUS

State of Mizoram and Anr.
Aizawl

2:Sh. C. Laltanpuia
Maubawk
Kawn Veng
Aizawl

Advocate for the Petitioner : Mr B Lalramenga
Advocate for the Respondent : Mrs. Linda L Fambawl
Addl. PP.
Mizoram for R1

ORDER

Date : 16-08-2023

**BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG**

Heard Mr. B. Lalramenga, learned counsel for the applicant/petitioner along with Ms. Mary L. Khiangte, learned Addl. Public Prosecutor for the State respondents.

2. This is an application filed under Section 389 (1) Cr.PC for suspension/stay of the impugned Judgment & Order dated 17.03.2023 and the Sentenced Order dated 20.03.2023 passed by the learned Special Judge, P.C Act, Aizawl in S.R PCA No. 1/2020 arising out of ACB P.S. Case No. 5/2018 dated 22.05.2018 under Section 30(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 with Sections 120B/420/477A of the P.C Act.

3. The learned counsel for the applicant/petitioner submits that the applicant/petitioner may be released on bail while suspending the Conviction Order dated 17.03.2023 convicting the petitioner under Section 120B/477A/420 IPC and under Section 13(2) r/w 13(1)(a)(c)&(d) of P.C Act on the ground that the instant applicant/petitioner is innocent of the charge made out against him. He further submits that the applicant/petitioner is now aged 52 years and is suffering from hypertension and diabetics, who need treatment outside Jail and therefore, his continuous presence in the Jail could be harmful to his health. He further submits that the co-accused in this case vide Order dated 30.05.2023 in

case No. I.A.(CrI.) No. 29/2023 was granted bail on the grounds that he was a senior citizen and also due to his health conditions.

4. The learned counsel for the applicant/petitioner further submits that the applicant/petitioner was convicted simply on the ground of a sum of Rs. 41,000/- being credited into his account, of which he had no knowledge and that he was innocent of the said offence which will be proved in the main CrI.A.No.24/2023 from the evidence of the prosecution witnesses. He further submits that the applicant/petitioner was on bail during the whole trial of the case before the Lower Court, during which time he had regularly attended Court and there was no chance of him absconding now if he is granted bail.

5. Ms. Mary L. Khiangte, learned Addl. Public Prosecutor on the other hand submits that even if the said mis-appropriate amount is only Rs. 41,000/-, the applicant /petitioner is a Group-'A' officer and an Accountant in their Department and therefore, he is expected to perform his work in a truthful and diligent manner. The evidence clearly showed that he had mis-appropriate a sum of Rs. 41,000/- and that if he is release at this stage, it would send a wrong message to the society at large.

6. Having heard the submissions made by the learned counsels for both the parties, this Court finds that the fact that the co-accused in the same connected case, who was said to have mis-appropriate a sum of Rs. 1.7 Crores, had been released on bail in I.A.(CrI.) No. 29/2023. This Court also finds that at this stage there appear to be prima facie grounds, from the evidence narrated by the learned counsel for the petitioner, that the petitioner could be innocent of the charge made out against him. It is also noted that the petitioner was on bail

during the trial of the case and he had attended Court regularly and there is no likelihood of the petitioner to abscond, being a permanent resident of P&E Veng, Serchhip, during the pendency of the CrI.A. No. 24/2023.

7. For the above reasons, this Court find it fit to grant bail to the petitioner by suspending the Conviction Order dated 17.03.2023 and the Sentence Order dated 20.03.2023 passed by the learned Special Judge, P.C Act. Accordingly, the petitioner may be released on bail with a bail bond of Rs. 50,000/- and with one reliable surety of like amount who shall be to the satisfaction of the learned Special Judge, P.C Act.

8. Accordingly, I.A.(CrI.) No. 41/2023 stands allowed and disposed.

It may be noted that the above observations should not influence or be taken into account in the disposal of the CrI.A.No. 24/2023.

JUDGE

Comparing Assistant