

GAHC030004172023



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

Case No. : AB/10/2023

Smt. Rimki Chakma
Kamalanagar-III, Chawngte, Lawngtlai District, Mizoram

VERSUS

The State of Mizoram through the Secretary, Home Department
Aizawl

Advocate for the Petitioner : Mr B Lalramenga

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

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

23.08.2023

Heard Mr. B. Lalramenga, learned counsel for the petitioner, who has filed this application under Section 438 of the Criminal Procedure Code, praying for grant of Anticipatory Bail since she apprehends her arrest in connection with ACB Case No. 1/2021 dated 02.03.2021 registered under Section 120B/406/409/420 IPC read with Section 13(1)(a)(b)/13(2) of the Prevention of Corruption Act, 1988.

The learned counsel submits that a complaint was submitted by the Under Secretary to the Government of Mizoram, District Council & Minority Affairs Department, wherein a preliminary enquiry was conducted on certain allegations that from an amount of Rs. 1020.60 lakhs released to CADC on 27th & 28th February, 2018 for taking up various development projects and the funds were withdrawn by the Executive Secretary from the Treasury on several dates, the preliminary enquiry reveals that a sum of Rs. 10 lakhs was sanctioned under Sports & Youth Services Department of CADC for construction of playground at Devasora (S) and the present petitioner was the Executing Agency. As per the enquiry, the petitioner has received Rs. 5 lakhs from the total sanctioned amount of Rs. 10 lakhs as advance. However on spot verification, it was found that no work was executed for the construction of playground at Devasora (S). Thus, it was suspected that the petitioner has misappropriated the sum of Rs. 5 lakhs.

The learned counsel for the petitioner submits that the petitioner was innocent of the charge since she had utilized the said Rs. 5 lakhs for completing the playground at Parva –II Village on the verbal instruction of the then CEM. He further submits that the Officer investigating the case should have gone and verified the fact that the playground at Parva –II Village was completed by the petitioner. The learned counsel further submits that the petitioner was informed that the investigation was almost complete and the Investigating Authority is contemplating to file a charge sheet against the petitioner and therefore, the petitioner at this stage apprehends that she may be arrested.

The learned counsel also submits that there is no chance of the petitioner absconding during the investigation of the case since she is a permanent

resident of Kamalanagar-III, Chawngte, Lawngtlai District, Mizoram and further she is also working as LDC under the General Administration & Control Department, CADC and therefore, she is not likely to abscond during the Trial/investigation of the case. He further submits that the petitioner till date has been co-operating fully with the investigation and will continue to do so in future.

The learned counsel thus prayed that for the above reasons, the interim bail which was granted to the petitioner vide this Court Order's dated 04.08.2023 may be made absolute. The learned counsel has also cited the judgment of the Apex Court in *Siddharth Vs. State of Uttar Pradesh & Anr.*, reported in (2022) 1 SCC 676 (Para 10).

Ms. Mary L. Khiangte, learned Additional Public Prosecutor for the State respondents, on the other hand submits that the petitioner was an educated lady and she should have known that diverting the money for some other cause besides which it was released, would amount to criminal misconduct and/misappropriation. She also appears not to have any documents to show that Rs. 5 lakhs was diverted for completion of the playground at Parva –II Village. Thus, it is most likely that the petitioner was guilty of the charge made out against her.

Having heard the submissions made by both the parties, this Court on considering the fact that the petitioner is a permanent resident of Kamalanagar-III, Chawngte, Lawngtlai District, Mizoram and is at present working as LDC under the General Administration & Control Department, CADC, finds that there is no likelihood of the petitioner absconding during the Trial/investigation of the

case. It is also seen that there is no allegation of the petitioner trying to hamper or interfere with the investigation of the case and it is submitted that she has been fully co-operating with the investigation of the case.

In view of the above reasons, this Court find it fit to make the interim bail granted to the petitioner vide its Court Order dated 04.08.2023 absolute and in the event of arrest of the petitioner, she shall be released on bail, on furnishing a bail bond of Rs. 50,000/- with one surety of the like amount to the satisfaction of the arresting authority.

Accordingly, AB No. 10/2023 stands allowed and disposed of.

JUDGE

Comparing Assistant