

GAHC030004232023



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

Case No. : Bail Appln./30/2023

Sh. Lalthlamuana
Edenthlar-I, Aizawl, Mizoram

VERSUS

State of Mizoram and Anr.
Aizawl2:S.I. C. Lalsangliana
Champhai Police Station
Mizora

Advocate for the Petitioner : Mr B Lalramenga

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

ORDER

Date : 08-08-2023

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

Heard Mr. B. Lalramenga, learned counsel for the petitioner. Also heard Ms. Mary L. Khiangte, learned Addl. Public Prosecutor.

2. This is an application for bail pertaining to Criminal Trial No. 163/2023 arising out of Champhai P.S. Case No. 170/2022 dated 18.12.2022. The petitioner had been arrested in connection with the seizure of 20 kgs of Crystal Methamphetamine, which is valued at Rs. 100 Crores.

3. The petitioner's counsel submits that Charge-sheet has been filed in the present case and that the Investigating Officer has found a prima facie case under Section 22(c)/29 of the NDPS Act against the petitioner.

4. The petitioner's case is that the Police had recovered the contraband drugs from a vehicle bearing registration No. MZ01-W-0610 driven and owned by one Sh. Sanghleithanga on 18.12.2022, while having a random check at Chalbawia Junction Khankawn Police Check Gate, Champhai. The petitioner had been told to collect China Tea Leaves from Sh. Sanghleithanga by his son Sh. Laldikdawnga@Dika. The petitioner then requested Sh. Vanlalngura of Edenthlar to take him to Sh. Sanghleithanga's house to collect the China Tea Leaves. When they went to Sh. Sanghleithanga's house to collect the China Tea Leaves, the Police arrested the petitioner, as the China Tea Leaves that was to be collected, was actually the seized Crystal Methamphetamine.

5. The petitioner's counsel submits that the petitioner's son Sh. Laldikdawnga has absconded and his whereabouts are not known. He also submits that the co-accused Sh. Sanghleithanga had been released on default bail under Section 167 Cr.PC, as he was put in judicial custody earlier than the petitioner.

6. The petitioner's counsel submits that as the petitioner has been arrested due to the petitioner doing the bidding of his son to collect China Tea Leaves from the co-accused Sanghleithanga (Driver), without knowing that he was going to collect contraband drugs, the petitioner should be released on bail. He also submits that in terms of the Charge-sheet, the innocence of the petitioner is apparent.

7. Ms. Mary L. Khiangte, learned Addl. Public Prosecutor, on the other hand submits that the Investigating Officer has found a prima facie case under Section 22(c)/29 NDPS Act against the petitioner and as such, it cannot be said that the Investigating Officer has found the petitioner to be innocent in connection with the recovery of the contraband drugs. She also submits that in terms of Section 35 of the NDPS Act, the petitioner would have to be deemed to be guilty, as there is a presumption of culpable mental state against the accused petitioner. She further submits that the petitioner's story that he had gone to collect the contraband drugs, on the bidding of the petitioner's son, without knowing he was to collect drugs, would have to be proved by the petitioner. She accordingly submits that the Bail Application should not be allowed.

8. I have heard the learned counsels for the parties.

9. The Investigating Officer, in his Charge-sheet has found a prima facie case against the petitioner under Section 22(c) and 29 of the ND&PS Act, 1985.

10. The main ground for taking a stand that the petitioner is innocent is that he had been asked by his son Sh. Laldikdawnga to collect China Tea Leaves from the co-accused Sh. Sanghleithanga. This fact is only known to the petitioner. The facts of the case however shows that the petitioner had gone to collect the contraband drugs. The question of whether he did not have knowledge that he would be collecting contraband drugs would have to be seen during the trial proceedings. Besides the above fact, the petitioner's son Sh. Laldikdawnga has also absconded and is apparently untraceable till date. In that view of the matter, this Court does not find any ground to allow the bail application.

11. The Bail Application is accordingly dismissed.

JUDGE

Comparing Assistant