

GAHC030004442023



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

Case No. : Bail Appln./31/2023

Gelot Lalhruaizela
Meidum, Kolasib District, Mizoram

VERSUS

State of Mizoram and Anr.
Aizawl:Commissioner
Excise and Narcotic Departmen

Advocate for the Petitioner : Mr. Lalbiaknunga Hnamte

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

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

07.09.2023

(Thursday)

Heard Mr. Lalbiaknunga Hnamte, learned counsel for the applicant along with Ms. Mary L. Khiangte, learned Addl. Public Prosecutor for the State respondents.

This is a bail application filed under section 439 Cr.P.C. read with Section 37 of the ND & PS, Act for release of the accused applicant on bail on his arrest on 22.10.2022 in connection with the case arising out of CrI.Tr. (Ex.) No. 1791/2022 under Section 22(c) of ND & PS, Act, 1985.

Mr. Lalbiaknunga Hnamte, learned counsel for the applicant submits that the applicant/petitioner along with the co-accused were arrested by Excise personnel on alleged possession of 14.865 Kgs of Methamphetamine (1,50,000 tablets). The learned counsel submits that the petitioner is a Maxi Cab (Sumo driver) having services between Aizawl to Shillong. On 22.10.2022 upon arriving to Aizawl from Shillong he was contacted by his uncle accused Lalrinzuala that he needs to deliver some goods to Sakawrtuichhun from Luangmual, as instructed by his uncle he went to Luangmual where 2 (two) persons loaded 2 packages of unknown goods to the Maxi cab and thereafter as instructed by his uncle he proceeded Sakawrtuichhun. On reaching Sakawrtuichhun, the petitioner's Maxi cab was halted by some unknown person and while they were trying to unload the goods, the Excise personnel approached and arrested them. The learned counsel submits that the petitioner is innocent of any offence since he was acting merely on the instruction of his uncle and was not aware of the content of the packages/goods loaded in the Maxi cab.

The learned counsel has led this court to an undertaking executed by the co-accused Lalrinzuala dated 19.5.2023, wherein the co-accused Lalrinzuala has stated that the petitioner had acted only on his instructions and he did not know the nature of goods which was carried by the Sumo that the petitioner being his nephew had acted only on his instructions and was innocent of the charge made out against him.

The learned counsel also led to this court to the charge sheet filed wherein though the seized articles was seized from the Maxi cab of the petitioner, there was no other involvement of the petitioner.

Ms. Mary L. Khiangte, learned Addl. Public Prosecutor on the other hand submits that the alleged uncle of the petitioner, accused Lalrinzuala had written the letter/undertaken dated 19.5.2023 only as an after thought.

She submits that in the statement of the accused Lalrinzuala taken under Section 161 Cr.P.C. does not mentioned anything about the petitioner not knowing the contents of the packages where the Methamphetamine was found and seized, she further submits that from the statement of the accused person, it appears that the petitioner new very well that he was transporting the seized contraband substances.

She submits that considering the nature of the seized articles which is 14.Kgs 865 gms. of Methamphetamine which is 1,15,000 tablets, it is unlikely that the petitioner did not know the contends and further more transportation of such substances which has serious negative effect on the society has to be viewed seriously. She submits that the petitioner if innocent at all can prove his innocent during the trial and not at this stage wherein if he is released on bail, he could be an enmity to the society.

Having heard the submissions made by the learned counsel for both the parties, this court finds that though the learned counsel for the petitioner submits that the petitioner was not aware of the contents of the parcels from where the contraband substances was seized, this court finds that since it is a fact that the seized articles were seized from the vehicle driven by him and also considering the fact that the petitioner had travelled from Luangmual to Sakawrtuichhun which is not the usual road from Aizawl to Shillong, it cannot be simply presumed that he did not know the contents of the seized parcel. As pointed out by the learned Addl. Public Prosecutor, the ignorance of the petitioner of the contents of the parcels seized from the vehicle driven by him was not mentioned by the co-accused when his statement was recorded u/s 161 Cr.P.C. Under such circumstances this court finds that the petitioner has fail to satisfy the court that there are reasonable grounds for believing innocence of the petitioner at this stage.

Accordingly, the bail application stands dismissed and disposed of.

JUDGE

Comparing Assistant