

GAHC030004592023



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

Case No. : Bail Appln./35/2023

Sh. Laldingliana
Bawngkawn, Aizawl, Mizoram

VERSUS

State of Mizoram
Aizawl

Advocate for the Petitioner : Ms. Lalngaihsaki Fanai

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

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

16.11.2023

Heard Ms. L. Fanai, learned counsel for the accused petitioner. Also heard Ms. Linda L. Fambawl, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C. r/w Section 37 of the N.D.P.S. Act, the accused petitioner, namely **Shri. Laldingliana** has prayed for grant of bail in connection with **Excise Case No. N-204/2022 dated 28.11.2022** under Section **22(c)** of the N.D.P.S. Act, 1985.

The scanned copy of case record is placed before the Court.

The case relates to recovery and seizure of 10,000 Methamphetamine tablets weighing 1.050 kgs. from the joint possession of the accused petitioner and another.

It is noticed that the accused petitioner has been in judicial custody since 27.11.2022, that is, for 355 days.

The F.S.L. report shows that the sample of the seized tablets contained Methamphetamine.

Perusal of the case record shows that the learned trial Court framed charges under Section 22(c) of the NDPS Act against the accused petitioner and another vide order, dated 01.03.2023. Thereafter, all the listed 6(six) prosecution witnesses are already examined in the case and accordingly, the case proceeded to the 313 Cr.P.C. statement stage.

On the other hand, perusal of the health status report, dated 15.11.2023 issued by the Medical Officer, Central Jail, Aizawl shows that the accused petitioner has been suffering from hypertension and gingivitis with recurrent mouth ulceration and bleeding of piles with constipation.

This Court is of the opinion that although there is bar under Section 37 of the N.D.P.S. Act in granting bail to accused in matters involving commercial quantity in view of the mandate under Article 21 of the Constitution of India, if the accused petitioner is released on bail the remaining part of the trial is unlikely to be hampered.

It is, however, noticed from the charge-sheet that the accused petitioner is a resident of adjoining Myanmar, but in the petition he is stated to be a resident of Aizawl, Mizoram supported by affidavit.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.50,000/- (Rupees Fifty Thousand) only** with two government sureties of like amount as submitted by the learned counsel for the accused petitioner, to the satisfaction of the learned **Special Judge (NDPS Act), Aizawl** subject to the following conditions-

- i) That the accused petitioner shall continue to appear before the learned trial Court on all dates to be fixed from time to time till the case is disposed of;
- ii) That the accused petitioner shall refrain from committing any offences similar to the one of which he is accused of commission; and
- iii) That the accused petitioner and his bailors shall produce their Voter Identity Card /Passport /Permanent Residential Certificate, whatever is available at the time of submission of the bail bond for satisfaction of the learned Court below regarding their identity and address and then return the same retaining legible photocopy thereof on record.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant