

GAHC030004782023



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

Case No. : Bail Appln./41/2023

Smt. Thangchungnungi
D/o T. Remmawia
R/o Ramhlun South, Aizawl, Aizawl District, Mizoram.

VERSUS

The State of Mizoram and 2 Ors
r/b the Secretary to the Govt. of Mizoram, Excise and Narcotics Department, Aizawl.
2:The Officer-in-Charge
Excise and Narcotics
Anti Narcotic Squad

3:ASI Ruth Lalruatpuii (Complainant)
Excise and Narcotic

Advocate for the Petitioner : Mr. S. Vanlalhriata

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

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG

ORDER

Date : 09-10-2023

Heard Mr. S. Vanlalhriata, learned counsel for the applicant along with Mrs. Linda L. Fambawl, learned Add. Public Prosecutor.

This is a bail application filed under Section 439 Cr.P.C read with Section 37 of ND & PS Act, 1985 to enlarge the accused/petitioner on bail pending trial in Criminal Trial Ex-No.849/2023.

The case of the petitioner is that on 15.03.2023 at around 4:00 P.M. on receiving information, the Excise & Narcotics, Anti Narcotic Squad had proceeded toward Ramhlun South wherein, they seized 380 grams of heroin (23 soap cases) packed in two paper boxes from the bedroom of the petitioner and another 3 grams of heroin was seized from the rented house of the main accused Isaac V.L. Muana, below Hotel Landmark, Bawngkawn. The net weight of suspected heroin was found to be 311 grams. The petitioner along with the co-accused persons was arrested and charge under Excise Case No. EX-N-66/2023 for offence under Section 21(c)/25 of ND&PS Act, 1985 dated 16.03.2023.

The learned counsel for the petitioner submits that the petitioner has been charged under section 25 of ND&PS Act, 1985 since the seize articles were found in the cupboard in the main bedroom of the petitioner. He however, states that the petitioner was not at home at the time of seizure of the contraband substances and it is cleared form the statements recorded under 161 Cr.P.C., wherein, both the co-accused persons have mentioned that they have bought

the contraband substances which they had kept in the Master bedroom of the petitioner while they were to shift to their new rented house.

The learned counsel for the petitioner submits that on perusal of the documents on record including the charge sheet, it can be seen that though the seized article was seized from house of the petitioner, the evidence shows that the petitioner was not at home and her name was not even mentioned at the time of the seizure of the seized articles. Both co-accused persons have stated in their statements recorded under 161 Cr.P.C. that they had procured the seized articles and kept the seized articles in the Master bedroom of the petitioner. The learned counsel thus, submits that the petitioner was not aware of the S.A. kept in their Master bedroom since she was not in her house when the co-accused persons kept the S.A.

Mrs. Linda L. Fambawl, learned Addl. Public Prosecutor on the other hand submits that, since the seized articles was seized from the residence of the petitioner and also in her master bedroom, it is cleared that she must have been involved in the said seizure of the contraband substances.

Having heard the submissions made by the learned counsel for both the parties, this court finds that both the co-accused have not implicated the petitioner in their statements recorded u/s 161 Cr.P.C. & the petitioner was not at

home when the S.A. was seized. Thus, considering the fact that it appears that the petitioner was not in her resident at the time of the seizure of the contraband substances and that both the co-accused person had stated that they had kept the seized articles in the Master bedroom of the petitioner, this court finds that prima facie, at this stage, the petitioner could be innocent of the charge made out against her.

In view of the above, this Court finds it fit, at this stage to grant bail to the petitioner with a bail bond of Rs.50,000/- (Rupees fifty thousand) only and with a surety of the like amount who shall be the satisfaction of the learned Trial Court.

Accordingly, Bail application No.41/2023 stands allowed and disposed of.

JUDGE

Comparing Assistant