

GAHC030004812023



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

Case No. : Bail Appln./42/2023

Smt. Lalzamthangi
Ruantlang, Champhai District, Champhai, Mizoram

VERSUS

State of Mizoram
Aizawl, Mizoram

Advocate for the Petitioner : Ms. Lalngaihsaki Fanai

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

ORDER

Date : 15-09-2023

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

Heard Ms. Lalngaihsaki Fanai, learned counsel for the petitioner. Also heard Mr. C. Zoramchhana, learned Public Prosecutor.

- 2.** This bail application has been made on the ground that the petitioner needs to have surgery as she is suffering from various ailments.
- 3.** The brief facts of the case is that the petitioner was arrested in connection with the recovery of 178 grams of heroin from the possession of Lalrindika Pachuau and Neihlianthanga on 14.09.2022. The petitioner had been arrested

due to the above 2 persons stating that the owner of the recovered heroin was the petitioner.

4. The petitioner, who was arrested on 16.09.2022, was granted 45 days bail on medical grounds by the learned Trial Court, vide Order dated 30.03.2023 in Bail Application No. 880/2023. The petitioner was thereafter remanded back into the judicial custody after the expiry of the bail period of 45 days.

5. The petitioner's counsel submits that the petitioner had been admitted to B.N. Hospital and Research Centre, Kulikawn, Aizawl, Mizoram on dt. 09/03/2023 on being referred by the Medical Officer of Central Jail, Aizawl for peripheral neuropathy, Tonsillar Hypertrophy, K/C/O-CLD, Hypothyroidism, Acute Pyelonephritis, gastritis etc. and that the petitioner was discharged from the said Hospital on dt. 06/04/2023. Further, the petitioner is due for surgery because of a growing lump in her throat. Her thyroid and nerve problem can attack other vital organs and can even lead to death without proper medication and leave the body susceptible to other diseases and infections. The petitioner has been diagnosed with Post Traumatic Stress Disorder (PTSD) and Depression for which she was given medicinal prescription and that she was also given medicines for the treatment of Gallbladder stones and Liver dysfunction on dt.29/04/2023.

6. The petitioner's counsel submits that the petitioner is the sole bread earner for her children and old aged parents. She submits that Charge-sheet has been filed and trial is going on. She submits that there is no question of the petitioner absconding and that the petitioner had not absconded during the 45 days bail period granted to her earlier. As such, the bail application should be

allowed.

7. Mr. C. Zoramchhana, learned Public Prosecutor submits that the ailments of the petitioner could be treated from within the jail and that there is no requirement of the petitioner being released on bail. He also submits that if petitioner's condition becomes serious, she can always be taken before the Medical Board for medical examination. He submits that as the seizure of the heroin is of a huge quantity, the bail application should be rejected.

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

9. The facts of the case show that the seizure of the heroin had been made from the co-accused Lalrindika Pachuau and Neihlianthanga, while they were inside vehicle bearing registration No. MZ-04-a-5951. The above 2 persons had been detained by the Central Anti Drug Squad Members (NGO). The record shows that the petitioner was not inside the vehicle at that time and there were nothing to connect her with the said recovery of the heroin.

10. The arrest memo of the petitioner only states that she had been arrested on 16.09.2022, while the recovery of the heroin had been made from the above 2 co-accused male persons on 14.09.2022.

11. The I.O in the Charge-sheet has stated that the petitioner had been arrested, as the 2 co-accused male persons had stated that the seized heroin belonged to the petitioner. Other than the statements made by the co-accused to the Police, there is nothing to connect the petitioner with the recovery of the said heroin.

12. On considering the above facts and the fact that the petitioner is suffering from various ailments, for which she had been given 45 days bail on medical ground earlier, this Court is of the view that bail should be granted to the petitioner, to enable her to have a thorough medical check-up and treatment. Further, as the petitioner had not absconded despite being given bail earlier, this Court is of the view that no purpose will be served in putting the petitioner in judicial custody, as Charge-sheet has already been filed.

13. Accordingly, bail is granted to the petitioner on a bail bond of Rs. 1,00,000/-, with one surety of like amount to the satisfaction of the learned Trial Court. The bail is subject to the condition that the petitioner shall attend the Trial Court proceedings regularly and she will not leave the State of Mizoram without taking prior permission from the learned Trial Court.

14. The bail application is accordingly allowed.

JUDGE

Comparing Assistant