

GAHC030004852023



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

Case No. : Bail Appln./43/2023

Sh. Lalrammawia
S/o David Paul (L)
R/o Champhai Venglai.

VERSUS

The State of Mizoram
Aizawl.

Advocate for the Petitioner : Mr Samuel Vanlalhriata Chhangte

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

ORDER

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

04.10.2023

Heard Ms. Valentina Laldinpuii, learned counsel for the petitioner and Mr. C. Zoramchhana, learned Public Prosecutor, Mizoram for the State.

[2.] By filing this application under Section 439 Cr.PC, the petitioner prays for grant of bail. According to the petitioner, he was arrested on 14.06.2023 in connection with Special Narcotics P.S Case No. 32/2023 registered under Section 21(b)/25 of the

ND&PS Act, 1985 on the allegation of having possessed 38.840 grams of yellowish powder suspected to be Heroin. According to the petitioner, he has no involvement in the case and the recovered substance does not belong to him. In this connection, the learned counsel draws the attention of this Court to a Certificate given by Zosangzuala, K. Thanthuama and Lalremruata, who were also arrested in connection with the aforesaid case submits that according to the three (3) persons, they have clearly certified that the instant petitioner has no involvement in connection with the recovery of the seized article.

[3.] The learned counsel further submits that the petitioner is having severe health issues including sleep apnoea. He had to undergo several tests because of his health condition. The attending doctor advised that he should be kept under observation to decide whether he will require CPAP or not. On 12.07.2023, the petitioner was brought to the Civil Hospital, Aizawl for checkup in the Cardiology Department. The attending doctor referred the petitioner to Medicine OPD and ENT OPD for further treatment of Hypertension, Diabetes Mellitus 2 and Sleep Apnoae, Nasal discharge etc,. Thereafter, as his condition worsened, he was again brought to the Civil Hospital on 18.07.2023 wherein, the attending doctor advised that he may be referred to a private hospital due to unavailability of bed in Civil Hospital, Aizawl during that time. He was then taken to Agape Multispeciality Hospital on the same day and admitted in Ward No. 4, Bed No. SC-3. The learned counsel submits that since then the petitioner is in the hospital.

[4.] The learned counsel further submits that on 27.09.2023, the petitioner was attended by the Pulmonary Medicine Specialist who diagnosed the petitioner with severe OSA (Obstructive Sleep Apnoea), the doctor further advised lifestyle modification and CPAP (NIV) and to adjust pressure and tolerance with CPAP Machine under observation. On 28.09.2023, the attending doctor further recorded in the medical notesheet that the petitioner's sleep study showed severe OSC for which BiPAP Machine was advised by respiratory medicine. The learned counsel therefore submits that due to the medical condition of the petitioner, he requires constant monitoring and as the same is not possible while being lodged in jail, bail may be granted to him even on health grounds.

[5.] Mr. C. Zoramchhana, learned Public Prosecutor submits that considering the medical condition of the petitioner, as highlighted in the bail application and the additional affidavit, Court may consider the same and pass appropriate order as it deems fit.

[6.] I have heard the submissions made by the learned counsels for the rival parties and I have perused the materials available on record. As can be seen, the petitioner was arrested in connection with the recovery of 38.840 grams of yellowish powder suspected to be Heroin. From the chargesheet produced by the learned counsel for the petitioner, it is seen that the seized article was sent for FSL examination and as per the report of the FSL, the seized article was found to be Heroin with a purity of about 78%w/w at the time of its examination. The chargesheet further goes to show

that in the money transaction which was done in connection with the seized article, the phone of the petitioner was utilized. Although the petitioner has placed reliance upon the certificate issued by the three (3) other accused persons, certifying that he is not connected with the case in any manner, the same by itself cannot be a ground to grant bail.

[7.] The fact however remains that the petitioner is stated to be admitted in the hospital on account of his medical condition, which requires constant monitoring by the medical staff or doctor. Upon considering the same, this Court is inclined to grant him bail for a specific period in order to enable him get proper care and treatment.

[8.] Accordingly, the petitioner is directed to be released on bail with effect from his execution of a bail bond of Rs. 25,000/- with one (1) surety of the like amount to the satisfaction of the Trial Court till 13.11.2023. The petitioner shall surrender himself before the Trial Court on 14.11.2023 without fail.

[9.] Bail is granted with a further condition that the petitioner shall cooperate with the trial proceedings and shall not indulge himself in a similar offence while on bail.

[10.] With the above observation and direction, the bail application stands disposed of.

JUDGE

Comparing Assistant