

GAHC030005012023



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

Case No. : I.A.(Crl.)/50/2023

Sh. Liansanga
S/o Suakkunga(L)
R/o Khatla, Aizawl, Mizoram.

VERSUS

The State of Mizoram
r/b the Secretary to the Govt. of Mizoram, Vigilance Department.

Advocate for the Petitioner : Ms Abigail Hmingthanpari

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

Linked Case : Crl.A./28/2022

Sh. Liansanga
S/o Suakkunga (L)
R/o Khatla
Aizawl
Mizoram.

VERSUS

The State of Mizoram
r/b the Secretary to the Govt. of Mizoram
Vigilance Department.

Advocate for the Petitioner : Mr. Angshuman Bora
Sr. Adv.
Advocate for the Respondent : Mrs. Linda L Fambawl (Addl.PP
Mizoram)

ORDER

Date : 26-09-2023

BEFORE

HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

The petitioner was convicted under Section 420 read with Section 120 B IPC and Section 13 (2) read with Section 13 (1) (c) & (d) of the Prevention of Corruption Act, 1988 vide Judgment & Order dt.14/12/2022 passed by the Learned Special Judge, Prevention of Corruption Act, Mizoram, Aizawl in S.R. (PCA) No. 04/2015 and thereafter vide Order dt.15/12/2022 he was sentenced to undergo 5 years imprisonment with a fine of Rs.20,00,000/- in default another imprisonment of 10 years u/s 420 IPC r/w Section 120 B IPC and he was also sentenced to undergo 5 years imprisonment with a fine of Rs.20,00,000/- in default another imprisonment of 10 years u/s 13 (2) r/w section 13 (1) (c) & (d) of the Prevention of Corruption Act, 1988.

Being aggrieved of such judgment, the present petitioner has approached this court by filing a criminal appeal, which is admitted. The petitioner also filed an IA for suspension of the sentence, which was also allowed by this court under its order dated 22.12.2022 in IA(Crl) 26/2022.

The present IA is filed under Section 482 Cr.P.C. with a prayer to permit the petitioner to visit Canada as according to the petitioner his son-in-law is seriously ill and is under treatment at Canada and in support, certain documents have also been annexed.

However, the fact remains that the validity of the passport of the petitioner

issued by the Passport Authority has expired in the year 2021 and in view of the pendency of the appeal, according to the petitioner, the passport authority has verbally refused to renew the said passport.

This court is of the view that issuing a direction to the Passport Authority to renew the passport in the present application shall not be permissible under the law inasmuch as no order/condition has been imposed either in the sentence or in the order passed by this court suspending such offence that the passport of the petitioner be not renewed.

In view of such fact, the petitioner submits that he may be allowed to withdraw this application permitting him to apply before the passport authority to renew his passport and in case of refusal he may be allowed to approach appropriate forum by filing appropriate application including under Article 226 of the Constitution of India.

Prayer is allowed.

Accordingly, IA stands closed on withdrawal with a liberty as prayed for.

JUDGE

Comparing Assistant