

GAHC030005392023



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

Case No. : Bail Appln./45/2023

Lalzokima
Upper Republic, Aizawl, Mizoram

VERSUS

State of Mizoram
Aizawl

Advocate for the Petitioner : Mr F Lalenglina

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

B E F O R E
HON'BLE MR. JUSTICE BUDI HABUNG
ORDER

13.10.2023

This is a bail application filed under Section 439 CrPC read with Section 37 of the ND&PS Act, praying for release of the accused petitioner on bail on health ground. The accused petitioner was arrested on 23.07.2023 in connection with Criminal Trial No. 1469/2023 under Sections 21(c)/25 of the ND&PS Act, 1985 arising out of Special Narcotics PS Case No. 34/2022.

2. Earlier, the petitioner had moved a bail application before the learned Special

Court, ND&PS Act, Aizawl, Mizoram which was rejected on the ground that the medical treatment of the accused had been taken care of by the Jail Authorities and as such, there is no sufficient ground to allow the application for release of the accused.

3. The learned counsel for the accused petitioner submits that during the trial proceedings in the instant case, the accused petitioner fell sick and he has been suffering from chronic pancreatitis pseudocyst [gastro-cystostomy] and Appendicolith. Due to the above health complications, he was referred to Zoram Medical College (ZMC), Falkawn for proper diagnosis and treatment. And on 26.09.2023, he had undergone operation for his Chronic Pancreatic pseudocyst [gastro-cystostomy] and Appendicolith with wound sepsis/infection and suggestion for further medical treatment.

4. The learned counsel for the petitioner further submits that on 10.10.2023, the Medical Office, Central Jail, Aizawl had issued Medical Certificate which is reproduced below:-

“TO WHOM IT MAY CONCERN

This is to certify that Mr. Lalzokima, 30/M, S/o Lalremthara, R/o Zokhawthar is a known case of Hypertension taking daily medicine. He was suffering from chronic upper abdominal pain with right lumbar pain. Fuc pancreatitis? [No records]. He was referred to Civil Hospital on 26/09/2023 as a case of uncontrolled hypertension [BP-164/111 mmHg, PR-127/mm] and Fuc Pancreatitis + Rt. Abdominal pain.

He was then referred to LRM Hospital from CHA where he was operated on 26.09.2023. He was then referred to ZMC Hospital with infected surgical wound.

He is advised to undergo necessary follow up outside Jail.

Signed/- dt. 10.10.2023.

Medical Officer,

Central Jail.”

5. The learned counsel for the petitioner also submits that the accused petitioner is the permanent resident of Zokhawthar, Champhai District and he is the sole bread earner of the family; and that he is unlikely to commit any offence after his release from the Jail custody during the trial proceedings of the case and also he vowed to cooperate with the trial of the case and attend the trial of the case regularly.

6. The learned Addl. Public Prosecutor submits that although the offence alleged against the accused is a serious offence as it involved with the commercial quantity of suspected heroin which was recovered from his possession, but since the accused is on medical treatment since 26.09.2023 and his attending Medical Officer in the Central Jail has advised to undergo necessary follow up treatment at the outside of the Jail, she has not objection if the Court grants bail to the accused petitioner with certain conditions to ensure his attendance.

7. I have heard the learned counsels for the parties. Also perused the documents produced before this Court including the Medical Certificate issued by the Medical Officer, Central Jail, which is annexed at Annexure-G.

8. The offence alleged against the accused petitioner is under Sections 21(c)/25 of the ND&PS Act, 1985, which comes under the commercial quantity, which is a serious offence in terms of punishment. However, considering the health condition of the petitioner and the certificate issued by the Medical Officer referring the petitioner to undergo necessary treatment outside the Jail, I am of the considered view that the accused can be released on bail on health ground to enable him to get his treatment outside the Jail. Accordingly, without considering the merit of the case, the bail prayer of the petitioner is allowed on health

ground. The accused is directed to be released on bail on the following terms and conditions:-

i) That the accused shall furnish a bail bond of Rs. 100,000/- (Rupees one lakh) with one surety of the like amount to the satisfaction of the learned Special Judge, ND&PS Act and the surety should be a permanent residence of Mizoram duly certified by the Village Council/Local Council concerned.

ii) That the accused shall appear before the Trial Court regularly as and when called for and he shall not jump bail during the trial period.

With the above observation, this bail application is allowed and disposed of.

JUDGE

Comparing Assistant