

GAHC030005432022



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

Case No. : Bail Appln./25/2022

Sh. Gul Mohammad Ali
S/o Naheb Ali
R/o Proko, Kamrup District, Assam.

VERSUS

The State of Mizoram
r/b the Secretary, Home Department, Aizawl, Mizoram.

Advocate for the Petitioner : Mr Lalremtlunga

Advocate for the Respondent : Ms. Mary Lalruatkimi Khiantge (Addl.PP, Mizoram)

B E F O R E
HON'BLE MRS. JUSTICE MARLI VANKUNG
O R D E R

24.01.2023
(Tuesday)

Heard Mr. Lalremtlunga, learned counsel for the applicant alongwith Ms. Mary L. Khiantge, learned Addl. Public Prosecutor.

This is an application under section 37 of ND & PS Act read with section 439 Cr.P.C. for release of the applicant on bail in connection with CrI. Tr. No.1072/2021 under section 20(b)(ii)(c) ND & PS Act, 1985.

Mr. Lalremtluanga, learned counsel for the applicant submits that the applicant was innocent of the charged under section 20(b)(ii)(c) ND & PS Act, 1985 and that the seized 22 kgs of Ganja was not known to him since he was only the driver of the vehicle from where the seized article was seized. He further submits that after the framing of charged, Pw-1 was examined on 21.02.2022 and that the matter has been pending since then for the examination of Pws No. 2 & 3.

That on 20.01.2023 the matter was again fixed for examination of PWs No. 2 & 3 after adjournment of the matter and fixing 6 (six) different Court dates, this is causing great prejudice to the applicant. That on examination of Pw-1, the prosecution witness had not implicated the applicant in any way.

The learned counsel for the applicant further submits that the applicant is a permanent resident of Silchar and is not likely abscond or leave the country.

Ms. Mary L. Khiangte, learned Addl. Public Prosecutor on the other hand submits that the seized article being 22 kgs of Ganja is of commercial quantity and from the deposition of Pw-1, the prosecution witness has clearly implicated the applicant. She further submits that for granting of bail under section 37 of the ND & PS Act., the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any such offence while on bail and that no such case has been made out by the applicant.

Having heard the submissions of both the parties, the scanned copies of the LCR is perused.

From the evidence of Pw-1 recorded on 21.02.2022, and the documents on record, no reasonable grounds is found to believe that the accused/appellant is not guilty of the offence under section 20(b)(ii)(c) ND & PS Act, 1985 nor is there any evidence indicating that the applicant is not likely to commit any such offence while on bail.

Thus, in view of the above findings and considering the huge quantity of seized article involved in the case, I do not find any sufficient grounds to release the applicant on bail at this stage.

However, this Court finds it fit to direct the learned Lower Court to expedite the trial of the case and to avoid such continuous adjournments of the court dates due to repeat absence of the prosecution witnesses.

Bail Application No.25 of 2022 is accordingly dismissed and disposed with the above direction.

JUDGE

Comparing Assistant