

GAHC030005542023



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

Case No. : Bail Appln./48/2023

Smt. Romanliani
D/o Thuamluaia (L)
R/o Sairang, Aizawl District, Mizoram.

VERSUS

The State of Mizoram and Anr.
R/b the Secretary/Commissioner, Excise and Narcotics Department, Govt. of
Mizoram. 2: The Officer-in-Charge
Anti-Narcotic Squa

Advocate for the Petitioner : Ms C Lalrinpuii

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

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO
ORDER

01.11.2023

Heard Ms. C Lalrinpuii, learned counsel for the applicant and Ms. Mary L Khiangte, learned Addl. Public Prosecutor for the State.

[2.] By filing this application under Section 439 of the Cr.P.C read with Section 37 of the ND&PS Act, the applicant prays for her enlargement on bail. It is the case of

the applicant that she was arrested by the Excise personnel on 14.05.2023 in connection with Ex. N-129/2023 dated 13.05.2023 and thereafter was detained from 15.05.2023. It is the case of the arresting authority that 139 grams of heroin was recovered from Smt. Zohmingliani, which she had kept in the house of one Sh. T K David. Thereafter, from the information given by her, 116 grams of heroin was again recovered from the bedroom of one Sh. Lalchhanchhuaha, Sihphir Arpu Veng. In view of such recovery, Smt. Zohmingliani was arrested on 12.05.2023. From the interrogation of Smt. Zohmingliani, it transpires that the instant applicant was the prospective buyer of the seized heroin and accordingly, she was arrested.

[3.] Ms. C Lalrinpuui, learned counsel submits that the applicant is in detention for the last 170 days despite the fact that she has no involvement in the alleged recovery of heroin. She submits that nothing was recovered from the possession of the applicant and that before her arrest and also in the process of her arrest, the Excise authorities have violated Section 42, Section 50(4) and also Section 50 of the ND&PS Act and therefore, even on this ground, the applicant is entitled to be released on bail.

[4.] The learned counsel further submits that the applicant filed Bail Appln. 1422/2023 before the learned Judge, Special Court but the same was rejected vide Order dated 06.08.2023 (06.09.2023). She submits that charge-sheet has already been submitted on 27.06.2023 and from a perusal of the same, it can be seen that the applicant is arrested only on suspicion of being involved with the recovered drugs. She

submits that nothing was recovered from her and she did not have anything in her possession. The learned counsel further submits that Sh. Lalbiakkima, who is a co-accused person, has already been released on bail by this Court and that the case of the present applicant is similar to the case of Sh. Lalbiakkima. Therefore, the applicant may also be released on bail by following the doctrine of parity. In support of her submission, the learned counsel has relied upon the case of *Rajveer Singh vs. State of U.P.*, rendered by the *Allahabad High Court in Crl. Misc. Bail Application No. 49705/2022*.

[5.] Ms. Mary L Khiangte, learned Addl. Public Prosecutor, on the other hand, submits that the applicant was arrested pursuant to the information given by Smt. Zohmingliani from whom recovery of the heroin was made. She submits that from a perusal of the statement of the applicant herself, it clearly transpires that the applicant had ordered the recovered drugs to be sold by herself and her colleague Chitea (Lalbiakkima). Therefore, it is clear that the applicant has involvement in the case. She, however, submits that the case of Sh. Lalbiakkima and the present application appears to be similar and moreover, Sh. Lalbiakkima had also made similar statements before the Excise authorities. Since this Court had already considered the other grounds raised by the applicant in Bail Appln. No. 28/2023 filed by Sh. Lalbiakkima, the learned Addl. Public Prosecutor submits that Court may consider the matter and pass appropriate orders as it deems fit.

[6.] I have considered the submissions made by the learned counsels for the

rival parties and I have perused the materials available on record.

[7.] From a perusal of the documents annexed which includes the charge-sheet and the statements made by the applicant and the other co-accused persons and at the same time on perusal of the Order dated 08.08.2023 passed by this Court in Bail Appln. No. 28/2023, this Court is of the view that the issue raised has already been considered in the earlier Bail Application filed by the co-accused person and therefore it will not be necessary to recite the same once again in the present Bail Application. The alleged involvement of the applicant is also found to be similar with that of Sh. Lalbiakkima with whom the applicant is said to be engaged in disposing of the drugs. Therefore, this Court is of the prima facie view that by applying the principles of parity, the applicant be enlarged on bail pending conclusion of the trial.

[8.] Accordingly, the applicant is directed to be released on bail on furnishing a bail-bond of Rs. 20,000/- with one surety of like amount who should be a local permanent resident of Aizawl having his/her own property and certified by the local council concerned. Bail is granted to the applicant with a further condition that she shall co-operate with the trial proceedings and shall appear before the Court whenever she is required to do so. Further, the applicant while on bail shall not indulge herself in commission of any similar or other offence.

[9.] It is also clarified that any observation made in this order is only for the purpose of granting bail and the same shall not affect in any manner the merit of the

case in the trial proceedings. In other words, the learned Trial Court shall decide the case on its own merit.

[10.] With the above observation and direction, Bail Application stands disposed of.

JUDGE

Comparing Assistant