

GAHC030005852023



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

Case No. : Bail Appln./52/2023

Sh. Lalsangliana
S/o F. Rokhuma
R/o Chhinga Veng, Aizawl, Mizoram.

VERSUS

The State of Mizoram and Anr.
r/b the Secretary to the Govt. of Mizoram, Home Department. 2:ASI PC
Vanlalruata
Special Narcotic Police Statio

Advocate for the Petitioner : Mr B Lalramenga

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

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

15.11.2023

Heard Mr. B. Lalramenga, learned counsel for the petitioner along with Mrs. Linda L. Fambawl, learned Addl. Public Prosecutor.

This is an application filed under Section 439 Cr.P.C read with Section 37 of the

ND & PS Act, 1985 for enlargement of the petitioner on bail.

The learned counsel for the petitioner submits that the petitioner has been charged under Section 21(c)/29 of the ND & PS Act in Criminal Trial No.1729 of 2022 arising out of Special Narco PS Case No. 38 of 2022 dated 05.08.2022.

The learned counsel submits that on 05.08.2022, acting upon the information received by the Special Narcotic Police, the police had seized 35 plastic soap cases amounts to 518 grams of suspected heroin by checking 3 paper cartoons lying on the road. The suspected person namely Lalneihsiami was also arrested and Special Narcotic P.S. Case No. 38 of 2022 under Section 21 (c) of ND & PS Act was duly registered.

During investigation, the petitioner was arrested by the case I/O on 01.09.2022, as he was allegedly suspected to be the person who handed over the consignment/contraband drugs to the accused Lalneihsiami and thereafter, the petitioner was forwarded to Judicial Custody on 02.09.2022. The learned counsel submits that the case is at the trial stage since chargesheet was already submitted and trial against the petitioner is almost at the stage completion since the next date has been fixed for examination of the accused person under Section 313 Cr.P.c.

The learned counsel submits that the prosecution evidence adduced does not implicate the petitioner accept for the statement of one prosecution witness which is also without any basis.

He therefore, submits that even though the trial against the petitioner is at a final stage, he may be granted bail since, it is unlikely that he will be convicted under Section 21 (c)/29 of ND & PS Act.

Mrs. Linda L. Fambawl, learned Addl. Public Prosecutor strongly objects to the release of the petitioner on bail submitting that the prosecution evidence shows that the petitioner was the main person who had supplied the contraband substance to the co-accused Lalneihsiami. She further submits that since the trial is now at its final stage, the matter may be decided by the trial court.

Having heard the submissions made by both the learned counsels, this court finds that considering the facts that the trial against the petitioner is now at the stage of examination of the accused under section 313 Cr.P.C, it is likely that the case against the petitioner will be disposed of shortly. For the above reasons, this court does not find it appropriate to delve into the prosecution evidence adduced before the learned trial court at this stage.

Thus considering the fact that the trial against the petitioner is at its final stage, this court does not find it appropriate to allow the Bail Application No.52/2023 and is accordingly dismissed and disposed of.

JUDGE

Comparing Assistant