

GAHC030006102023



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

Case No. : Bail Appln./55/2023

Sh. Lalsangvela
S/o Thlengkunga
R/o Rahsi Veng, Lunglei, Mizoram.

VERSUS

The State of Mizoram and Anr.
Aizawl. 2:S.I. ZD Lalremruat

Advocate for the Petitioner : Mr B Lalramenga

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

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI
ORDER

04.12.2023

This is an application under Section 439 CrPC read with Section 37 of the ND&PS Act, for releasing the accused/petitioner on bail.

2. The brief facts according to the prosecution is that on 19.02.2023 at around 5:00 am, upon an information received from the source, ASI of Lunglei Police Station and his team recovered and seized suspected heroin weighting 3.543 kgs at Venglai, Lunglei near M/S Sohrab Uddin Khan & Sons Store concealed inside the handle of floor

mops from the possession of Shri Lalhruaitluanga, Shri Ngurchhingpuia, Shri Lalnunmawia and Shri Vanlalruata.

3. On 20.02.2023, Shri Lalawmpuia and Smt. Lalbiakveli were arrested in connection in this case as they were implicated by the accused Sh. Lalhruaitluanga during interrogation. On 26.02.2023, the accused petitioner Sh. Lalsangvela was arrested after he was implicated by Sh. Lalhruaitluanga and Sh. Lalawmpuia.

4. Accordingly, case was registered under Section 21(c)/29 of the ND&PS Act, 1985 and after submission of chargesheet, trial has already commenced.

5. Mr. B. Lalramenga, learned counsel appearing for the accused petitioner submits that since one of the accused, namely, Sh. Lalawmpuia was already released on bail by the Judge, Special Court, ND&PS Act, Lunglei on 15.09.2023, the petitioner accused is also entitled to be released on bail. He further submits that no *prima facie* case is made out against the petitioner accused on the basis of the materials available on record and that the petitioner accused has been arrested only based on mere suspicion in terms of the implication made by the co-accused especially by Sh. Lalhruaitluanga and since there is no call data available to prove the statement made by the said co-accused, there cannot be any evidence conclusive enough to bring home the charges against the petitioner accused.

6. By referring to the arrest memo at page 154 of the petition, the learned counsel draws the attention of this Court to serial No. 12 from where it appears that the investigating officer is of the opinion that if the accused petitioner is released on bail, he is likely not to commit crime or threaten the victims/witnesses.

7. On the other hand, Mrs. Mary L. Khiangte, learned Addl. Public Prosecutor strongly opposes the prayer for bail and by referring to the arrest form, draws the attention of this Court that this is a case registered under Section 21(c)/29 of the ND&PS Act and that there are sufficient evidence to show that the accused petitioner is the main conspirator in this case. She further submits that from the statement of co-accused, it

is proved that the petitioner accused was fully aware of the seized contraband articles and he is a conspirator and abettor.

8. I have considered the submissions made by both the parties and also perused the materials available on record. There are sufficient materials on record to establish that the petitioner accused is a drug seller and there are call detail reports of phone belonging to the accused petitioner which reveals that the accused persons frequently communicated through voice call with each other. There are materials to show that the accused petitioner had regularly communicated to the co-accused through voice call from the analysis of CDR. From the aforesaid materials, this Court is satisfied that there are prima facie materials for believing that the accused petitioner has committed the offence. As such, I am of the opinion that the accused/petitioner has failed to make out a case for grant of bail and hence, I am not inclined to release the accused petitioner on bail.

9. I made it clear that the observation made hereinabove are tentative in nature and the same had been made purely for consideration of the prayer made in the IA. Such observation would not have any bearing during the trial of this case.

10. The bail petition accordingly stands rejected as dismissed.

JUDGE

Comparing Assistant