

GAHC030006742023



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

Case No. : Bail Appln./67/2023

Smt. Laldinsangi
D/o Raltlinga (L)
R/o New Ngharchhip, Hnahthial District, Mizoram.

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Mr. T Lalnunsiana

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

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

14.12.2023

Heard Mr. J.H. Ricky Lalruatfela, learned counsel for the applicant and Mrs. Mary L. Khiangte, learned Addl. Public Prosecutor for the State.

2. This application is under Section 439 CrPC, 1973 seeking for grant of regular bail in connection to Excise Case No. N-162/2022 dated 15.10.2022 under Section 22 (c) of the ND&PS Act, 1985.

3. The applicant was arrested on 14.10.2022 at 3:00 pm by the Excise & Narcotic (Anti Narcotic Squad), Mizoram Aizawl for alleged possession of 6.122 kgs of red and green colour tablets suspected to be Methamphetamine. The applicant applied for bail by filing Bail Application No. 1410/2022 before the Special Court but the bail application was rejected vide the Order dated 13.12.2022. The applicant again by filing Bail Application No. 12/2023 applied for bail before this Court but however the application was rejected vide Order dated 19.07.2023.

4. The investigation has already been completed and chargesheet has already been filed. Trial has commenced and it is submitted at the bar that there are total 8 prosecution witnesses, out of which, the deposition of PW-1 is completed.

5. The case of the prosecution as appeared from the chargesheet is that on 14.10.2022, at around 2:00 pm, the concerned SI received a reliable report from his source that two women namely, Mawii and Dinsangi (present applicant) kept some quantity of Methamphetamine and also trying to sell within the area of Aizawl. The information was accordingly reduced into writing and submitted to OC and thereafter proceeded to the location. After reaching their, the party approached the suspected persons and during that time one woman named Edenmawii carried a bag. Thereafter, search was conducted at the bag and from the said bag, they recovered the said contraband articles. Accordingly, they arrested Edenmawii and Laldinsangi (applicant).

6. Mr. J.H. Ricky Lalruatfela, learned counsel for the applicant submits that the applicant is not the owner of the seized articles and she had only accompanied her friends on the date of arrest. The learned counsel submits that the medical condition of the applicant has deteriorated since July 2023 and in support of the same, learned counsel draws the attention of the Court to the document at page 101 which is annexed at Annexure-16.

7. On the other hand, Mrs. Mary L. Khiangte, learned Addl. Public Prosecutor strongly opposes the prayer of the bail and draws the attention of this Court to the

information report at page 32 to show that the information that was received and recorded on 14.10.2022 clearly indicated that two women namely, Mawii & Dinsangi (present applicant) kept some quantity of contraband articles and also trying to sell within the concerned area and the presence of the applicant/accused with the other co-accused, at the time of seizure proves that the applicant had conscious possession of the seized contraband articles. Hence, she submits that the present bail application may be rejected.

8. I have considered the submissions made by both the counsels and also perused the record of the case.

9. From the perusal of the statements made by the three accused persons involved in Excise Case Ex-N 162/2022 dated 15.10.2022 under Section 22(c) of the ND&PS Act, 1985, 6.122 kgs of suspected Methamphetamine was recovered from a bag which was being carried by the co-accused Smt. Edenmawii and she was accompanied by Smt. Laldinsangi (present applicant). According to their statements, the seized article belonged to Sh. Richard Lalhmingmawia who is also one of the accused person. The seized article was to be disposed of with the help of the applicant and Smt. Edenmawii and that it was at that moment that they were arrested. It further appears that the Trial is progressing.

10. Furthermore, it appears that this Court on 19.07.2023, while rejecting the prayer for bail of the applicant/accused has already considered the medical conditions of the accused and has recorded that it is seen from the documents annexed, that the applicant is getting regular treatment and she is prescribed medication by both the Jail Doctor as well as the Civil Hospital, Aizawl. The applicant having failed to furnish cogent reasons and or developments post the order dated 19.07.2023 of this Court rejecting bail, this Court is not inclined to release the applicant/accused on bail.

11. Therefore, considering the seriousness of the offences, the rigour of the Section 37 of the ND&PS Act, vis-vis Article 21 of the Constitution of India, the prayer

of bail stands rejected.

12. Accordingly, the bail application is rejected.

13. It is needless to clarify that any observations made in this order is tentative and for the purpose of disposal of this bail application only and shall not be used for any other purpose, including in the pending trial of this case.

JUDGE

Comparing Assistant