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**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

BAIL APPLICATION NO. 31 OF 2023

Mr. Jangkhola Khongsai, aged about 34 years, S/o
Late Thangkhai Khongsai, resident of Kotlen Village,
P.O & P.S. New Keithelmanbi – Kangpokpi District,
Manipur.

.... Petitioner

- Versus -

The Officer In Charge, Hiyanglam Police Station,
Kakching District, Manipur-795103.

.... Respondent

B E F O R E
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU

For the petitioner	:	Mr. R.S. Reisang, Sr. Advocate
For the respondent	:	Mr. Y. Ashang, PP
Date of hearing	:	05.04.2024
Date of order	:	15.04.2024

J U D G E M E N T & O R D E R

(CAV)

[1] Heard Mr. R.S. Reisang, learned sr. counsel appearing for the petitioner and Mr. Y. Ashang, learned PP appearing for the respondent.

[2] The present Bail Application has been filed under section 439 of Cr.P.C, 1973 r/w Section 37 of the ND&PS Act, 1985 for releasing the accused/petitioner on bail in connection with FIR No. 24 (10) 2023, HLM P.S. U/s 21(b) ND & PS Act with the following prayers:

"3. After hearing the parties, pass an order for releasing the accused person on bail in connection with FIR No. 24 (10) 2023, HLM P.S. U/s 21 (b) ND & PS Act for the ends of justice."

[3] Brief fact of the case is that the accused/petitioner belongs to kuki Community and he is one of the village volunteers guarding his village due to the ongoing situation. On 18.10.2023, when the accused/petitioner was on his way to his farm he was abducted by some unknown persons from Longa Koireng, and was badly beaten black and blue by the said unknown persons for which he could not walk properly. Later on he was handed over to Meira Paibi's/womenfolk at Wabagai Lamkhai Bazar by the unknown person. It was pointed out that the unknown persons has taken away his sling bag containing 1 Mobile Phone, 2 ATM Cards (Axis & SBI) and other personal belongings. Thereafter, after receiving the news the Kakching Police teams comprising of Kakching CDOs rushed to Wabagi Lamkhai Bazar, and evacuated the accused/petitioner from Meira Paibi's/womenfolk. Accordingly, the accused/petitioner was formally arrested by the police personnel of Pallel Police station at around 10:20 p.m. of 18.10.2023 and

registered an FIR being No. 24 (10) 2023, HLM P.S. U/s 21(b) ND & PS Act against him.

[4] On 19.10.2023 the accused/petitioner was produced before the Hon'ble Chief Judicial Magistrate, Thoubal in connection with the FIR case and remanded to police custody for 7 days. Then, the accused/petitioner approached the court for releasing him on bail and the same was rejected by the Ld. Judge of the Special Court (ND & PS), Thoubal vide order dated 25.10.2023 and further remanded to judicial custody for another 15 days.

[5] According to the learned counsel for the petitioner, the accused/petitioner is completely innocent on the basis of the following grounds:

- i. that, the seized heroin (24 grams) does not belong to him, it was implanted by the unknown persons so as to be arrested by the police.
- ii. that, at the time of abduction by the unknown persons they stole all his belongings including his mobile phone, 2 ATM cards and other personal belongings. Later on they handed him to the womenfolk framing him of carrying heroin (2 soap case) weighing 24 gm., which was done deliberately by the unknown miscreants to silent the accused/petitioner from claiming his valuable items from them. It is worth mentioning herein that on the day the accused/petitioner was abducted, the unknown miscreants has forcefully extorted the security pin code of his ATM cards and withdrawn Rs. 40,000/- (Rupees Forty thousand) only, and has continued to do so in the presiding few days after his arrest by the police.
- iii. that, the miscreants nor the womenfolk are authorized to search any person under the ND & PS Act, and as such the

arrest of the accused/petitioner was done in total contravention to the provision of Section 42 of the ND & PS Act, 1985.

iv. that, the accused/petitioner has no previous criminal records and has no such involvement in carrying, selling etc of illegal drugs.

v. that, the accused/petitioner belongs to Kuki community and as such the miscreants who belong to Meitei community has some ill-founded intention to frame the accused/petitioner as a drug dealer.

vi. that, the quantity of the heroin powder which was allegedly recovered from the petitioner was 24 gm, i.e to say that it is less than the commercial quantity and the statutory restriction under section 37 of the ND & PS Act are not attracted.

vii. that, the accused/petitioner is a asthma patient and needs medical attention from time to time.

[6] On perusal of objection in affidavit for the respondent, it emerged that the quantity of the seized contraband as allegedly recovered from the accused/petitioner is only 24 gm which is below commercial quantity.

It also emerged that the accused/petitioner along with seized contraband allegedly recovered from the petitioner handed over to some womenfolk at Wabagai Lamkhai Bazar as such mandatory weighing of the seized contraband was done at the spot in the presence of the witnesses. But, the weighing procedure was done at Pallel police station.

It is also fact that the accused/petitioner was arrested on 18.10.2023, since that day the accused/petitioner is in the judicial custody till today. The statutory period for investigation is short of

only 7(seven) days when counted on the date of hearing and when counted till the delivery of judgment i.e. 15.04.2024 it is more than 180 days.

[7] As per the ground taken by the petitioner, he is suffering from Bronchial Asthma (document enclosed). In the facts and circumstances, as narrated above this Court is of the opinion that the accused/petitioner is liable to be released on bail.

[8] In the circumstance the accused/petitioner is released on bail on his furnishing of PR bond of Rs. 1,00,000/- (Rupees one lakh) with one surety of like amount of local Government Employee (Gazetted Officer) to the satisfaction of the Trial Court. It is also made clear that the petitioner should co-operate with the investigation and he should make himself available for interrogation by the I.O of the FIR case as and when required. The petitioner should not leave the State of Manipur without prior permission of the Arresting Authority.

[9] The accused/petitioner is directed to furnish the required bonds before the learned Special Judge (ND&PS), Thoubal within 1(one) week.

[10] Accordingly, the present bail application is disposed of.

[11] Send an extract copy of this order to the Court of learned Special Judge (ND&PS), Thoubal.

JUDGE

FR/NFR

Lucy