GAHC040002042024

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

Case No. : Crl.Petn./18/2024

Ram Jamoh
Son of Late Tayeng Jamoh, resident of Jarkong Village, PO and PS Pasighat, East Siang District, Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Tamo Taggu

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 03-06-2024

Heard Mr. T. Taggu, the learned counsel for the petitioner. Also heard Mr. T. Ete, the learned Additional Public Prosecutor for the State.

2. Office note dated 20.05.2024 reflects that service upon the respondent No. 2 is still awaited, however, pursuant to the order of this Court, Mr. T. Ete, the learned Additional Public Prosecutor represents the respondent No.2 i.e. the informant/police officer.

3. By filing this petition, the petitioner has challenged the order dated 12.09.2023, passed by the learned Special Judge, NDPS, Pasighat, whereby the bail granted to the accused person, namely, Smti. Nung Padung@Yage Yompang in NDPS Pasighat P.S. Case No. 10/2022 under Section 21(a) of the NDPS Act, 1985 and in NDPS Pasighat P.S. Case No. 102/2022 under Section 21(b) of the NDPS Act, 1985 has been cancelled on the ground that the accused person is involved in another case being NDPS Pasighat P.S. Case No.98/2023.

4. The accused, namely, Smti. Nung Padung@Yage Yompang was granted bail on 07.02.2023 in NDPS Pasighat P.S. Case No. 10/2022, by the learned Special Judge, NDPS, Pasighat and in another case the accused was also granted bail by the learned Special Judge, NDPS, Pasighat in NDPS Pasighat P.S. Case No. 102/2022 on 23.01.2023.

5. Having granted bail to the accused person in the above two NDPS cases and on being found involved in the third NDPS case in NDPS Pasighat P.S. Case No. 98/2023, the learned Special Judge,

NDPS, Pasighat has cancelled the bail of the accused, namely, Smti. Nung Padung@Yage Yompang in the above mentioned two cases.

6. Mr. T. Ete, the learned Additional Public Prosecutor fairly submits that the learned Special Judge, NDPS, Pasighat has committed an error as the accused once granted bail in a particular case cannot be cancelled only on the ground that the accused is involved in the other or subsequent cases.

7. Record reveals that the learned Special Judge, NDPS, Pasighat had already granted bail to the accused in the above two NDPS cases being NDPS Pasighat P.S. Case No. 10/2022 and NDPS Pasighat P.S. Case No. 102/2022. The accused is found to be involved in the third case being NDPS Pasighat P.S. Case No. 98/2023. Evidently, the learned Special Judge, NDPS, Pasighat, on the prayer of the I.O, in the third case i.e. NDPS Pasighat P.S. Case No. 98/2023, the two bail orders which were passed by the learned Special Judge, NDPS, Pasighat has been cancelled only on the ground that the accused is involved in the third NDPS case being NDPS Pasighat P.S. Case No. 98/2023.

8. Upon consideration of the materials on records and submissions of the learned counsel for the parties, I find that such an action of cancelling the bail of the accused, namely, Smti. Nung Padung@Yage Yompang, who has been granted bail in earlier above

two cases, in third and subsequent case cannot be sustained. The law on cancellation of the bail is well settled as bail once granted, ought not to be cancelled in a mechanical manner.

9. In view of the above, this Court finds the impugned order dated 12.09.2023 in NDPS Pasighat P.S. Case No. 98/2023 passed by the learned Special Judge, NDPS, Pasighat cancelling the bail of the accused, namely, Smti. Nung Padung@Yage Yompang not sustainable. Accordingly, the impugned order dated 12.09.2023, passed by the learned Special Judge, NDPS, Pasighat in NDPS Pasighat P.S. Case No. 98/2023, is hereby set aside and quashed.

10. Consequently, the earlier bail granted to the accused i.e. Smti. Nung Padung@Yage Yompang in NDPS cases being NDPS Pasighat P.S. Case No. 10/2022 and NDPS Pasighat P.S. Case No. 102/2022, shall stands revived.

11. It is provided that setting aside of the impugned orders shall not preclude the learned Special Judge, NDPS, Pasighat to consider whether any supervening circumstances have arisen or conduct of the accused post grant of bail demonstrate that it is no longer conducive to permit her to retain her freedom by enjoying the concession of bail, if the same is warranted in the facts and circumstances of the particular case where bail is granted.

12. Accordingly, the criminal petition is allowed and disposed of.

JUDGE

Comparing Assistant