



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

Case No. : BA/126/2023

Smti Sarani Manno
W/o Shri Tanno Manno, Chongkham-II, P.O Chingkham, Dist. Namsai, Arunachal Pradesh.

VERSUS

THE STATE OF AP
through the Public Prosecutor

Advocate for the Petitioner : D K Deori

Advocate for the Respondent : P P of AP

Linked Case : IA(Crl)/1/2024

Sarani Manno
Age: 60
Occupation :
Address: W/o Shri Tanno Manno
Chongkham - II
PO Chongkham
Namsai District
AP

VERSUS

The State of AP
Age: 0
Occupation :
Address:represented by the PP

Advocate for : D K Deori
Advocate for : P P of AP appearing for The State of AP: Advocate appearing for
respectively.

**BEFORE
HONBLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 09.01.2024

Heard Mr. D. K. Deori, learned counsel for the applicant. Also heard Mr. G. Tado, learned Addl. Public Prosecutor for the State.

2. By filing this application, under Section 439 of the Cr.P.C., 1973, the applicant has prayed for grant of regular bail to the accused, namely, Shri Wachingta Mannoi, who is in judicial custody since 06.11.2023 in connection with Chowkham Police Station Case No. 40/2023, under Sections 21(b)/25 of the NDPS Act, 1985.

3. The applicant has filed an application subsequently being IA(CrI)01(AP)2024 for grant of default bail as the police has failed to file Charge-sheet/challan within the statutory period of 60 days.

4. Mr. G. Tado, learned Addl. P.P., submits that as on date no charge-sheet/challan has been filed by the police and the statutory period of 60 days has already over by 06.01.2024. Thus, he fairly submits that the

accused Shri Wachingta Mannoi though arrested for offence under Sections 21(b)/25 of the NDPS Act, 1985 with intermediate quantity, he is entitled to default bail.

5. An FIR was lodged before the Officer In-charge, Police station, Chongkham, Namsai on 06.11.2023 by Shri Chera Saban, SDPO/DySP (HQ), Namsai, which is quoted below for ready reference:-

To,
The Officer In-charge,
Police Station, Chongkham,
Namsai District, Namsai

Date: 06.11.2023

Sub: First Information Report.

Sir/Madam,

It is to inform you that on 06.11.2023 at 1730 hrs, a reliable input was received from source that 03 (three) persons (name unknown at that moment) was traveling by one Alto K10 silver colour car bearing registration No. AS23AH1754, and they were going to Chongkham area to sell huge quantity of contraband substance. It was also revealed that they may sell and flee away if not intercepted in time. Accordingly, I informed Magistrate Shri Kenge Loya, CO, Chongkham over the phone to reach as a gazette officer required for all legal procedures. Accordingly, Chongkham PS GD entry No.015 dated 06/11/2023 was made. The Police party led by undersigned left to set up a Naka at Tengapani Bridge Chongkham side to intercept the said vehicle.

At around 1820 hrs, the noted Vehicle Alto K10 silver colour car bearing registration No.AS23AH1754 was intercepted at the mentioned location. The Alto K10 car was coming from Chongkham side and was on its way towards Namsai. We found three 03 persons in the vehicle namely (1) Shri Rakesh Pegu, 34 yrs, S/O Shri Naresh Pegu, Village/PO - Lakla, PS - Lekhapani District Tinsukia (Assam), (2) Shri Suraj Limbu, age 24 yrs, S/O Lt. Dal Bahadur Limbu, Village Phulbari, PS - Lekhapani, District - Tinsukia (Assam) and (3) Shri Ran Bahadur Tamang, age 46, S/O Lt. Chin Bahadur Tamang of Village 9 Mile Abor Gaon, PO - Vishnupur, PS - Lekhapani, District - Tinsukia (Assam). On spot interrogation, they revealed that they had already sold 05(five) soap case seized packet contraband substances to two person namely Shri Wachinta Mannoi, age 35 yrs, S/O Shri Tanno Mannoi of Village Chongkham-II, PO/PS Chongkham Dist-Namsai (AP) and Chow Jimunam Munglang, age 35 yrs, S/O Lt. Chow Maha Munglang of Village Tissue,

PO/PS - Chongkham, District - Namsai (AP), who resides in different locations and help us in recovering the contraband substances. Hence their Alto K10 car along with sale proceed amount of Rs.26,500/- (Rupees twenty six thousand five hundred) only denomination of Rs.500/- X 53 Nos., were seized. Hence, Police team left for the said location as led by (1) Shri Rakesh Pegu, (2) Shri Suraj Limbu, and (3) Shri Ran Bahadur Tamang. First we reached the house of Shri Wachinta Manno, age 35 yrs, S/O Shri Tanno Manno of Village Chongkham-II, PO/PS Chongkham, District - Namsai (AP) which was located nearby stone crusher of Chongkham-II. Before search was conducted, we requested two persons to be a witness during the search in presence of the Magistrate and independent witnesses namely Chow Khunseng Namchoom and Shri Krishna Thapa.

Sec 50 NDPS notice was also served, we also offered our search before conducting their search. During search following items were recovered.

(1) Three packets of yellowish orange powder packed in a soap case packet weighing 11.70 gm, 12.17 gm and 12.53 gm marked as A-1, A-2 and A-3 respectively, total 36.93 grams including transparent plastic pouch. Seizure sealing and packing were done on the spot in presents of independent witness and Magistrate at 1920 hrs.

Further, the police team left for house of Chow Jimunam Munglang, age 35 yrs, S/O Lt. Chow Maha Munglang of Village Tissu, PO/PS Chongkham, District - Namsai, who had brought contraband substances from three persons travelling in Alto K10 car as mentioned above. It was located at Tissu Village, Chongkham, since it was 2130 hrs., already we couldn't gather other independent witness one police personnel namely Ct. M. L. Singpho was requested to be one of the witness and he agreed. Hence search was conducted in presence of Magistrate along with witness Smti Bhunima Munglang W/O Shri Chow Jimunam Munglang and Ct. M. L. Singpho. Mr. Jimunam Munglang on interrogation reveled that he had kept two packets of contraband substances beneath the wooden block of his house. And he voluntarily agreed to surrender it to us. Hence he took out the hidden contraband substances in presence of witness and Magistrate by himself from the said location.

Thereby following seizure was made (1) Two packets of yellowish orange powder packet weighing 11.25 gm and 11.00 gm, marked as B1, and B2 respectively, total 22.25 gm. including transparent plastic pouch. All procedure such as seizure, packing, sealing were done on the spot in presence of witness and Magistrate at 2145 hrs.

Hence you are requested to register a case under appropriate section of law.

Yours truly

Chera Saban, SCPO/DySP, (HQ)
Namsai.

6. Accordingly, the Chowkham Police Station Case No. 40/2023, under Sections 21(b)/25 of the NDPS Act, 1985 was registered and the accused Shri Wachingta Manno was arrested on 06.11.2023.

7. Considering that the police has failed to file a Charge-sheet/challan within the statutory period of 60 days as required under the law and the accused Shri Wachingta Mannoi is ready to furnish bail bond, this Court has no other option, but, to allow the accused to go on bail under compulsive bail statutorily to be granted under the proviso to (a)(ii) of Section 167(2) of Cr.P.C.

8. It is needless to observe that if the investigating authority/ police fails to file the charge-sheet/challan within the statutory period of 60 days as required under the law, even if, the matter relates to a serious case under NDPS Act, the accused obtains an indefeasible right to be released on bail, if, he or she is ready to furnish bail bond.

9. In view of the facts and circumstances of this matter, the accused Shri Wachingta Mannoi is granted a compulsive bail, under proviso to (a)(ii) of Section 167(2) of Cr.P.C., on furnishing a bail bond of Rs. 50,000/- (Rupees Fifty Thousand) with one surety of like amount to the satisfaction of the learned Special Court, Tezu.

10. Accordingly, the bail application and IA(CrI)/01(AP)2024 stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant