

GAHC010093742024



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

Case No. : I.A.(CrI.)/440/2024

HATNEILHING KUKI
W/O LATE ISAM ZEME TEMPORARY RESIDENT OF HOUSE NO. 51,
PANJABARI, BATAHULI, P.S. SATGAON, DIST. KAMRUP (M), ASSAM
PERMANENT RESIDENT OF POLICE COLONY (EAST) P.S. DIMAPUR, DIST.
DIMAPUR, NAGALAND.

VERSUS

THE STATE OF ASSAM,
REPRESENTED BY PUBLIC PROSECUTOR ASSAM

Advocate for the Petitioner : MR ARUP JYOTI HAZARIKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 24-05-2024

- 1.** Heard Ms. B.S. Goyal, learned counsel for the applicant.
- 2.** The applicant Ms. Hatneilhing Kuki aged 56 years has filed this application seeking modification of the order dated 07.02.2024 passed by this Court in BA

No. 293 of 2024 or pass a fresh order granting regular bail to the applicant in view of subsequent development. The applicant is booked u/s 22(C) of the NDPS Act in connection with NDPS Case No. 117/2021 arising out of Satgaon P.S. Case No. 148/2021.

3. Vide order dated 07.02.2024 this Court in connection with BA No. 293/2024 granted interim bail to the applicant. The applicant was directed to surrender before the learned trial Court on or before 08.04.2024. Thereafter the applicant again approached this Court and filed an interlocutory application registered as I.A. (Crl.) No. 349 of 2024 and vide order dated 08.04.2024 the applicant's interlocutory order was extended upto 13.05.2024.

4. The applicant was suffering from severe piles condition/fistula and was bleeding severely while she was in custody and she was taken to GMCH for treatment. When the applicant was granted interim bail, she went to the GMCH on 08.03.2024 but she was told that she was late and the doctor will not be available and she was advised to visit on Thursday. On 21.03.2024 (Thursday) the applicant was advised several tests. Due to financial constraints the applicant went to Dimapur on 24.03.2024 to arrange money from her friends and relatives and thereafter she returned to Guwahati on 27.03.2024 to visit GMCH and to attend the trial Court proceedings fixed on 30.03.2024. On 28.03.2024 the applicant visited the GMCH and she was directed to undergo knee replacement first as it was most urgent. Meanwhile, the applicant was also suffering from a metal plate issue. She was discouraged to pursue her treatment for the metal plates implanted in her body.

5. The applicant is overweight about 100 kgs and this has aggravated femur issues and knee cap problem leading to aggravated pain. On 02.03.2024, the applicant again left for Dimapur and finally she was hospitalised at the district

hospital in Dimapur and she was advised and admitted for "Left thigh diagnosed implant removal". Due to her excessive weight and multiple health issues and due to deprivation of proper diet and hygiene and lack of exercises and proper medical care in the jail, the applicant developed multiple health issues.

6. Upon hospitalisation on 03.04.2024 the doctors advised the applicant that her other health issues and parameters have to be brought under control before undergoing surgeries. Thereafter, an application was filed for extension of interim bail and vide order dated 08.04.2024 in I.A.(Crl.) No. 349/2024 the applicant's interim bail was extended upto 13.05.2024. After running about from pillar to post the applicant was finally admitted at Dimapur District Hospital and her treatment commenced and preparation was made for her surgeries.

7. It is submitted that the treatment, surgeries post recovery are likely to take time as the applicant has been asked to bring down her weight and as the applicant has been informed that her other health parameters have to be treated and improved. The applicant was in custody for two and half years. Surgeries are required for both her knees. The medical papers are marked as Annexure-H. The trial against the applicant has also progressed to a certain extent and only official witnesses are to be examined. The applicant requires a high seat toilet which is not available in the jail. The applicant has also prayed for regular bail on the grounds of parity as the co-accused has been enlarged on bail. The applicant has prayed for regular bail or for any order this Court deems fit and proper.

8. Heard Mr. B.B. Gogoi, learned Addl. PP, Assam.

9. The learned Addl. PP has resisted the bail application. It is submitted by the learned Addl. PP that the petitioner who was directed to surrender on

13.05.2024 has not surrendered before the Court but has preferred this bail application.

10. I have considered the submissions at the Bar with circumspection. I have also perused the Medico Legal Report submitted by the applicant.

11. The allegation against the applicant is that on 05.06.2021 at about 7:30 PM, on a tip off, the informant along with the police personnel accompanying him conducted a raid in the rented house of the petitioner and co-accused Lalkhohen Mangte, near Ganesh Mandir and recovered 302 gms of brown sugar and cash of Rs. 20,000/- and seized the same in connection with the case.

12. It is submitted on behalf of the applicant that she is staying in a rented house and she has sublet the house to the co-accused Lalkhohen Mangte. The applicant is innocent. The tenant may have been dealing in drugs. Moreover, due to her health condition the applicant is unable to stay inside the jail. Earlier due to the medical condition of the applicant, she was granted interim bail and which was further extended. The trial Court's record reveals that trial has progressed to a considerable extent. 11 witnesses have been examined so far. Only 2 witnesses are yet to be examined. This case is at the fag end of the trial.

13. Considering the health condition of the petitioner, the interim bail is extended upto 24.07.2024 enabling the petitioner to undergo surgeries required for her recovery. The petitioner is directed to surrender before the trial Court positively on 24.07.2024.

JUDGE

Comparing Assistant