

GAHC010137512024



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

Case No. : Bail Appln./1994/2024

LALHRUAITLUANGA AND ANR.
S/O LALROKIMA,
R/O L-20, SECTION- I, LOWER MAIN ROAD, CHAWNUI, VAIVAKAWN, P.O.
AND P.S.- VAIVAKAWN, AIZWAL, MIZORAM- 796009.

2: JOEL LALHMINGMAWIA
S/O THANGLURA

R/O B-58
4-SECTION
NEAR ST. MARYS SCHOOL
ELECTRIC VENG
AIZWAL MUNICIPAL COUNCIL
AIZWAL
MIZORAM- 796007

VERSUS

THE UNION OF INDIA
REP. BY THE PUBLIC PROSECUTOR FOR DIRECTORATE OF REVENUE
INTELLIGENCE.

Advocate for the Petitioner : MR A TEWARI

Advocate for the Respondent : SC, DRI

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

24.07.2024

Heard Mr. A. Tewari, learned counsel for the petitioners. Also heard Mr. S. C. Keyal, learned Standing counsel for the DRI.

2. This application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for grant of bail to the accused/petitioners, who have been languishing in jail since 05.06.2024 in connection with DRI Case No. 08/CL/IMP/GOLD/DRI/GZU/2024-25 under Sections 7(1) (C)/11(1)/11(2)/104/110/135 (1) (b) (i) (A) and Section 135 (1) (b) (i) (C) of the Customs Act, 1962.

3. The Case Diary has been received and I have perused the same.

4. It is submitted by the learned counsel for the petitioners, Mr. Tewari, that the present petitioners are innocent and not involved in the alleged offence. It is an admitted fact that the police recovered gold bars while intercepting the vehicle, but the petitioners were unaware of the contents of the packages they were transporting. Furthermore, the accused have been in custody since 05.06.2024, during which time the investigating officer (IO) had ample opportunity to interrogate them. However, the IO did not visit the jail premises to interrogate the petitioners, nor did the authorities seek their remand.

5. Mr. Tewari, learned counsel for the petitioners further submitted that the confessions made before the IO cannot be considered. He also pointed out the contradictions between statements relied upon by the IO, which were recorded

prior to the filing of the FIR, and those made in the FIR itself. He further submits that the IO has already collected the name of the vehicle owner and seized the driving licenses of the petitioners during the investigation. It is submitted that petitioner No. 2's daughter has a third-stage thyroid problem that requires immediate surgery, and petitioner No. 1's wife is also suffering from an illness. To substantiate the same, he produced the medical documents. He submits that the petitioners are ready to abide by any conditions imposed upon them if granted the privilege of bail, taking into account the length of detention and their families' health conditions. Furthermore, they are still ready and willing to cooperate with the IO for further investigation whenever necessary.

6. In this context, the learned Standing counsel, Mr. Keyal, has submitted that there are sufficient incriminating materials available against the accused/petitioners, and the learned Trial Court had previously denied bail based on the evidence available in the CD. He further submitted that the offences committed by the accused/petitioners are serious in nature and have led to the Government being deprived of revenue. It is noted that the investigation is ongoing, and other culprits are yet to be booked in connection with this case. Therefore, he submits that this is not a fit case to grant bail to the accused/petitioners based solely on the length of their detention. It is admitted that 49 gold bars of foreign origin were recovered from the petitioners' car, which had been transported from Aizawl to Guwahati.

7. After hearing the submissions made by the learned counsels for the parties and after perusing the case diary, it is evident that there has been significant progress in the investigation. However, it has also come to light that

to date, the IO has not sought remand for the petitioners, nor have they been interrogated within the jail premises. Further, it cannot be denied that the accused/petitioners are behind the bar for a considerable period i.e. 50 days, wherein, the IO got sufficient opportunity to interrogate the accused/petitioners keeping them in custody.

8. From the notes of the IO and the materials available in the Case Diary, it is evident that the confiscation proceedings have not yet been initiated. In the same time, the other culprits involved are yet to be booked in connection with this case.

9. Considering the entire facts and circumstances of the case, I find that the probability of furnishing the charge-sheet within the stipulated period is less. Therefore, taking into account the period of detention already undergone by the accused/petitioners, as well as medical grounds, and without delving into the merits of the case, I am of the opinion that the Investigating Officer (I.O.) has had ample opportunity to interrogate the accused/petitioners keeping them in custody. Consequently, further custodial interrogation of the accused/petitioners does not appear necessary in this instance case.

10. Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with two sureties (one surety must be a Government servant) of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M), the accused/petitioners, namely, **1. Shri Lalhruaitluanga** and **2. Shri Joel Lalhmingmawia**, be enlarged on bail, subject to the following conditions:

- (i) that the petitioners shall make themselves available for interrogation by the Investigating Officer as and when required;

- (ii) that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioners shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup (M), without prior permission.

11. Meanwhile, the learned Trial Court, upon releasing the petitioners, shall obtain their PAN Card, Aadhaar Card, etc., and if these documents have been seized by the IO, copies thereof shall be obtained from the concerned IO.

12. In terms of above, this bail application stands disposed of.

13. Return the Case diary.

JUDGE

Comparing Assistant