

GAHC030000262024



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

Case No. : Bail Appln./3/2024

Smt. C. Devi
D/o Sh. C. Riachi
R/o Melthum, Aizawl, Mizoram.
P/A Dairy Veng, Tuipang, Siaha District, Siaha, Mizorma.

VERSUS

The State of Mizoram and Anr.
r/b the Public Prosecutor, Mizoram.

2:Smt. Ruth Lalruatpuii
Sub-Insppector
Excise and Narcots Deptt.
Aizawl, Mizoram

Advocate for the Petitioner : Ms. Ruthi Vanlalhruaii

Advocate for the Respondent : P.P./Addl.PP, Mizoram

B E F O R E
HON'BLE MRS. JUSTICE MARLI VANKUNG
O R D E R

15.02.2024

Heard Ms. Ruthi Vanlalhruaii, learned counsel for the applicant/petitioner along with Mrs. Linda L. Fambawl, learned Addl. Public Prosecutor for the State respondents.

This is an application filed under Section 439 Cr.P.C read with Section 37 of ND & PS Act for the release of the applicant/petitioner on bail pending trial of Excise Case No.394 of 2023 dated 12.01.2023 under Section 21(b) of ND & PS Act.

The learned counsel for the applicant/petitioner submits that the instant applicant was arrested on 12.01.2023 for the alleged involvement in the seizure of 10 grams of heroin which was kept by the co-accused, Lalmuanzovi in a pocket of the applicant's coat which was kept hanging in her varendra.

She submits that the learned trial court had convicted Lalmuanzovi, the co-accused on 25.08.2023 under Section 21(b) of ND & PS Act and sentenced her to undergo 10 months RI with a fine of Rs.20,000/- i.d R.I. for another period of 2 (two) months. The detention period undergone by the convicted was set off and thus, the co-accused Lalmuanzovi was released from Jail. However, instead of acquitting or convicting the instant appellant on the same date, the learned trial court had decided to recall the prosecution witnesses, while the applicant still continued to remain in judicial custody. The learned counsel submits that since the applicant has been in judicial custody for more than a period of 13 months and the co-accused Lalmuanzovi charged and convicted for the same offence was sentenced to undergo imprisonment for a period of only 10 months and is now released from Jail, thus, the instant applicant may be allowed to released on bail till the disposal of the Excise Case No. No.394 of 2023.

She further submits that the applicant is a permanent resident of Siaha, having a

minor child to look after and therefore she is not likely to abscond during the pendency of the trial.

Mrs. Linda L. Fambawl, learned Addl. Public Prosecutor submits that since the case is at its trial stage and the prosecution witnesses have been summoned, the applicant may not be granted bail at this stage.

Having heard the submissions made by learned counsel for both the parties, this court finds that considering the fact that the co-accused Lalmuanzovi was convicted u/s 21(b) ND & PS Act and has been sentenced to undergo 10 months imprisonment R.I and with a fine of 20,000/- i.d 2 (two) months and finding that the applicant is also charged under the same section 21(b) of ND & PS Act for the seized 10 grams of heroin along with the co-accused Lalmuanzovi. This court finds that it would be appropriate if the applicant who is now in judicial custody for more than 13 months be granted bail. Accordingly, the applicant is allowed to be released on bail with a bail bond of Rs.40,000/- (Rupees forty thousand) and with one surety who shall be to the satisfaction of the learned Judge, Special Court, under ND&PS Act, Aizawl.

Bail Application No.3 of 2024 stands allowed and disposed of.

JUDGE

Comparing Assistant