

GAHC030000692024



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

Case No. : Bail Appln./9/2024

Sh. Abdul Kayer Md.
S/o Abdur Rakib
R/o Nilam Bazar, Karimganj.

VERSUS

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

Advocate for the Petitioner : A H Borbhuiya

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

08.03.2024

Heard Mr. A.H. Borbhiya, learned counsel for the petitioner along with Mrs. Linda L. Fambawl, learned Addl. Public Prosecutor.

2. This is a bail application filed under Section 439 Cr.P.C. read with Section 37 of the ND & PS Act for the enlargement of the petitioner i.e. Abdul Kayer Md. on bail in respect of Excise and Narcotics case No. SES-258/2023 dated 205.09.2023 registered

under Section 21(c) ND & PS Act and being trial under CrI.Tr.No.2069/2023.

3. The learned counsel submits that on 05.09.2023 at 12:30 p.m. the contraband substances which is heroin kept in 79 soap cases was seized from a Alto Car vehicle, while the petitioner was travelling in a Bolero vehicle. He submits that the arresting authority has simply suspected the instant petitioner when nothing was seized from his possession. The learned counsel also submits that the petitioner was arrested along with 2 (two) other accused persons who were also travelling with him in the Bolero vehicle, however the other 2 accused persons have also be released on bail by a Co-ordinate bench of this Court in Bail Appln. No.5/2024 dated 12.02.2024. The learned counsel therefore, submits that since the instant petitioner is also placed in the same footing as the other co-accused persons, he may also be granted bail.

4. Mrs. Linda L. Fambawl, learned Addl. Public Prosecutor in all fairness admits that the facts as projected by the learned counsel for the petitioner is correct, however she submits that since the instant petitioner is not a permanent resident of the State of Mizoram., there could be a chance of him absconding and hampering the trial of the instant case.

5. Having heard the submissions made by the learned counsels for both the parties, this court considering the fact that the co-accused persons in the instant case, who were also similarly situated as the instant petitioner, where the 3 (three) of them while travelling in a Bolero vehicle were arrested when the seized articles were seized from a different vehicle which is an Alto Car have been granted bail.

6. This court finds it appropriate to also grant bail to the instant petitioner since the Co-ordinate bench of this Court in Bail Application No.5/2024 dated 12.02.2024 had also allowed the released of the co-accused persons on bail.

7. Accordingly, bail is granted to the petitioner, on the deposition of a bail bond of Rs.30,000/- with 2 (two) sureties of the like amount to the satisfaction of the learned Special Judge, under the ND & PS Act.

The bail will also be subjected to the condition that" the petitioner shall not leave territorial jurisdiction or the jurisdiction of the learned Special Judge under the ND & PS Act without prior permission of the Court.

The petitioner shall regularly appear before the concerned Trial Court on the day fixed from time to time till the disposal of the case.

The petitioner shall not in anyway hamper or tamper with the evidence of the case during the trial.

The petitioner will also furnish the present residential address with prove to the Trial Court and shall not change the address without prior permission of the learned Trial Court."

Accordingly, with the aforesaid directions the instant Bail application stands allowed and disposed of.

JUDGE

Comparing Assistant