

GAHC030000962024



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

Case No. : Bail Appln./14/2024

Sh. N.C. Muankima
S/o Kapluaia
R/o Lawngtlai District, Mizoram.

VERSUS

The State of Mizoram
r/b the Secy. to the Govt. of Mizoram, Home Department, Mizoram.

Advocate for the Petitioner : Ms. Lalmuankimi Khiangte

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

21.02.2024

Heard Ms. Lalmuankimi Khiangte, learned counsel for the applicant. Also heard Mrs. Linda L. Fambawl, learned Additional Public Prosecutor for the State respondent.

2. This is an application filed under Section 389 Cr.P.C for the enlargement of the applicant on bail by suspending the conviction and sentence order passed by the learned Special Judge, Special Court, PC Act in SR(PCA) No. 1/2019

reference ACB PS Case No. 2/2015 dated 19.05.2015 under Section 13(2) r/w Section 13(1)(d) of PC Act, 1988 r/w Section 409/420/468/471/477A of IPC.

3. The learned counsel submits that on the conviction of the appellant under Section 13(2) r/w Section 13(1)(d) of PC Act r/w 120B of IPC, the appellant was sentenced to undergo 5 years imprisonment with a fine of Rs. 2 lakhs, in default another imprisonment of 1 (one) year. On his conviction under Section 409 r/w 120B IPC, he was sentenced to undergo 5 years imprisonment with a fine of Rs. 2 lakhs, in default another imprisonment of 1 (one) year and on his conviction under Section 409 r/w 120B IPC, he was sentenced to undergo 5 years imprisonment with a fine of Rs. 2 lakhs, in default another imprisonment of 1 (one) year. That the terms of imprisonment are to run concurrently.

4. The learned counsel submits that the conviction against the Judgment & Order dated 19.01.2024 passed by the learned Special Judge, Prevention of Corruption Act, Aizawl has been admitted and the appellant was convicted mainly on the basis of the statements of the co-accused person under Section 313 Cr.P.C. That the evidence on record shows that the Trial Court had failed to properly consider the entire evidence of the prosecution and the defence before coming to its wrongful conclusion.

5. The learned counsel further submits that the applicant/appellant is innocent of the charge and that the applicant has been lingering in jail since 22.01.2024 and that he is suffering from several ailments with old age ailments that the instant applicant is now aged about 73 years and suffering from diabetic and hypertension. He is also suspected to be suffering from brain tumor and could be requiring to undergo biopsy. The learned counsel further submits

that the other co-accused persons in the same case have also been granted and released on bail by a Co-ordinate Bench of this Court in Criminal Appeal No. 3/2024 dated 31.01.2024 by suspending the conviction and sentence order passed by the learned Special Judge, Special Court, PC Act.

6. Mrs. Linda L. Fambawl, learned Additional Public Prosecutor for the State respondent submits that the instant application has many defects and may not be entertained in its present form and style. She submits that there is no prayer for suspension of the conviction and sentence order of the learned Special Court, P.C. Act. She however in all fairness admits that the other co-accused persons who have prayed for the suspension of the sentence and conviction passed by the learned Trial Court in the same case have been granted by a Co-ordinate Bench of this Court and are released on bail.

7. Having heard the submissions made by the learned counsels for both the parties, this Court finds that the defects found in the instant application may be over looked on the oral submissions made by the learned counsel for the applicant. On considering the projection made by the learned counsel for the applicant and considering the fact that the other convicted persons in the same case have been granted bail by the Co-ordinate Bench of this Court in Criminal Appeal No. 3/2024 dated 31.01.2024 by suspending their conviction and sentence order, this Court find it fit that the instant applicant may also be allowed to be released on bail with a bail bond of Rs. 50,000/- and one surety of the like amount which shall be to the satisfaction of the learned Special Judge, PC Court by suspending the conviction and sentence passed by the Trial Court in SR(PCA) No. 1/2019 reference ACB PS Case No. 2/2015 dated 19.05.2015 under

Section 13(2) r/w Section 13(1)(d) of PC Act, 1988 r/w Section 409/420/468/471/477A of IPC till the disposal of the criminal appeal.

8. Accordingly, Bail Application No. 14/2024 stands allowed and disposed of.

JUDGE

Comparing Assistant