

GAHC030001142024



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

Case No. : Bail Appln./17/2024

Smt. R. Lalhmachhuani
D/o R. Pasina
R/o Electric Veng, Lunglei, Mizoram.

VERSUS

The State of Mizoram
r/b the PP/APP, Mizoram.

Advocate for the Petitioner : Ms. Lalngaihsaki Fanai

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

ORDER

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG

27.03.2024

Heard Ms. Lalngaihsaki Fanai, learned counsel for the applicant alongwith Mrs. Mary L. Khiangte, learned Addl. P.P for the State respondent.

This application under Section 37 of the ND&PS Act read with Section 439 Cr.PC is filed for the release of the applicant on regular bail.

The learned counsel for the applicant submits that the applicant had previously

approached this Court for the release of the applicant on bail, which was however withdrawn with a permission to file afresh on 19.02.2024. The applicant has now approached this Court since the Warrant of Arrest has been issued against her by the learned Trial Court dated 17.01.2024 for the production of the applicant before the Court on or before 09.02.2024.

The learned counsel for the applicant submits that the applicant is at present admitted in the Swagat Hospital, Guwahati since she has been advised to insert a pacemaker. The learned counsel submits that the applicant is entitled to be released on bail due to her health condition and also due to the fact that the mandatory provisions of Section 42 ND&PS Act has not been followed. She submits that the case I.O in his deposition before the Court has also admitted that there was a mistake in time in which he recorded the information. The learned counsel also submits that the applicant is innocent and there is no incriminating evidence against her under Section 21 (c) ND&PS Act that she was just a passenger in the Bolero vehicle from where the contraband substance was seized.

The learned counsel has further submitted that they had filed the bail application before the learned Trial Court, which was heard on 10.10.2023. However, the bail application order is still pending and is not out till date. While waiting for the order, the Warrant of Arrest has been issued against her. The learned counsel submits that for the above reasons, the applicant may be granted regular bail.

The learned counsel submits that they have obtained verbal permission from the Court for leaving the State of Mizoram and that her pending Bail Application No. 1677/2023 which was heard on 10.10.2023 is still pending and has not been rejected till date.

Mrs. Mary L. Khiangte, learned Addl. P.P on the other hand submits that the learned Special Court ND&PS Act has rightly issued the Warrant of Arrest against the applicant, since the conditions imposed while the learned Trial Court granted interim bail to the applicant vide its Order dated 26.04.2023 in Bail Application No. 788/2023 is violated, in its Order dated 27.06.2023 bail was granted with the condition that the accused should not leave the State of Mizoram during pending trial without previous written permission of this Court. However, it appears that the applicant has violated the above condition, since she had left the State of Mizoram for undergoing treatment at Guwahati. She further submits that from the evidence and the Charge-sheet submitted, there is no violation of Section 42 ND&PS Act as submitted by the learned counsel for the applicant.

Having heard the submissions made by the learned counsels for both the parties, this Court finds that the learned Judge, Special Court under ND&PS Act, had heard the Bail Application No. 788/2023 filed by the instant applicant on 10.10.2023, but till date the bail application has not been disposed of.

In view of the aforesaid circumstances, this Court finds it highly inappropriate that the bail application heard on 10.10.2023 is still awaited for orders. It is also seen that while the matter is yet to be decided, a Warrant of Arrest has been issued against the applicant.

It is also seen that the applicant has stated that she obtained verbal permission to leave the State of Mizoram to undergo medical treatment. It is not a disputed that the applicant is undergoing medical treatment at Guwahati.

In view of the above facts and circumstances, this Court finds it appropriate to grant bail to the applicant with a bail bond of Rs. 50,000/- and one reliable surety

who shall be to the satisfaction of the learned Judge, Special Court, ND&PS Act and any other conditions as found fit by the learned Trial Court.

Accordingly, Bail Application No. 17/2024 stands allowed and disposed of.

JUDGE

Comparing Assistant