

GAHC030001202024



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

Case No. : Bail Appln./19/2024

Sh. F. Lalrinmawia
Durtlang North, Aizawl, Mizoram

VERSUS

State of Mizoram r/b The Secretary to the Govt. of Mizoram and Anr.
Aizawl, Mizoram 2:S.I. Lalrinsanga
Excise and Narcotics
Anti Narcotic Squad
Aizawl
Mizora

Advocate for the Petitioner : Mr B Lalramenga

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

07.03.2024

Heard Mr. B. Lalramenga, learned counsel for the applicant/petitioner, who has filed the instant application under Section 439 Cr.P.C. r/w Section 37 of the ND&PS Act for releasing the petitioner on bail.

The learned counsel submits that the petitioner was arrested on

21.09.2021 at Bawngkawn Brigade, Aizawl along with the other co-accused Sh. Jerry Lalrammuana and Sh. Manglianhre in connection with the seizure of 359 grams of yellowish powder suspected to be Heroin kept in 29 soap cases and charged u/s 21(c) of ND & PS Act, 1985 in CrI. Trl. No.2 of 2022, Ref. Excise & Narcotics Station Case No. Ex.N-105 of 2021.

The learned counsel submits that the seized article was not recovered from the possession of the petitioner but was recovered from the co-accused Sh. Jerry Lalrammuana, who was later discharged and made a prosecution witnesses in the instant case. The learned counsel further submits that the charge sheet has been submitted and the case is at its trial stage, where out of 9 (nine) prosecution witnesses 7 (seven) prosecution witnesses have been examined till date. He further submits that the petitioner is suffering from Lung TB and has been recommended by the Board of Medical Examination, Government of Mizoram to take treatment at CMC, Vellore. He also submits that the Medical Officer of Central Jail, Aizawl has also recommended that the petitioner needs Anti Tuberculosis Therapy (ATT) for at least 18 months and a regular visit to TB Center. The Medical Officer has recommended that the petitioner needed to take treatment and management outside jail since the petitioner needs to be kept in isolation from the other inmates.

The learned counsel for the petitioner also submits that the learned Special Court, ND&PS Act had time and again granted interim bail to the petitioner vide its Order dated 21.06.2022, Order dated 30.03.2023, Order dated 14.06.2023, Order dated 22.09.2023, Order dated 30.11.2023, wherein the interim bail of the petitioner was allowed to be extended. However, the

learned Trial Court in its Order dated 13.02.2024 had rejected the application of the petitioner to be released on bail, on the grounds that the relevant medical documents showing that the petitioner requires medical treatment were not available.

The learned counsel submits that the learned Trial Court had erred in passing such an order where all the medical documents were enclosed in the bail application. The learned counsel further submits that the petitioner may be granted bail on medical grounds so that he can undergo proper treatment outside Mizoram. The learned counsel for the petitioner further submits that the petitioner is not inclined to abscond or jump bail if bail is granted since he is a permanent resident of Sailulak, Serchhip District and is presently a resident of Durtlang North, Aizawl.

Mrs. Linda L. Fambawl, learned Additional Public Prosecutor in all fairness submits that she has been informed that the petitioner is required to undergo treatment for TB and that there is danger that the said TB could also be dangerous for the other inmates since the said sickness is contagious. She further submits that if the petitioner is allowed to be released on bail, stringent bail conditions may be imposed so that the petitioner does not abscond or hamper the trial of the case which is at its final stage.

I have heard the submissions made by the learned counsels for both the parties. It is seen that the applicant was granted interim bail on 21.06.2022 for two months, which was extended time and again for a period of 2 Months till the order dated 30.11.2023 wherein the interim bail was again extended for 2 months by the learned Trial Court. It is also seen that the learned trial court

had rejected the regular bail application vide its order dated 13.02.2024 on the grounds that relevant documents were not submitted.

On perusal of the medical documents, it is seen that the petitioner is recommended to undergo treatment at C.M.C Vellore, and that he is suffering from Lung T.B which is said to be contagious. The Jail Medical Doctor has also recommended his release on bail since he needs to be kept in isolation and not safe for the other jail inmates.

In view of the above, medical conditions projected the court find it fit to grant bail and release the petitioner by depositing the bail amount of Rs. 50,000/- and with two sureties of the like amount, who shall be to the satisfaction of the learned Trial Court.

Accordingly, the instant Bail Application No.19 of 2024 stands allowed and disposed of.

JUDGE

Comparing Assistant