

GAHC030001682024



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

Case No. : Bail Appln./31/2024

Sh. Kutbul Alom Laskar
S/o Siraj Uddin Laskar
R/o Dakshin Mohanpur,
P/S Sonai, Cachar District, Assam.

VERSUS

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

Advocate for the Petitioner : Mr. Jonathan Lalrintluanga

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

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG
ORDER

Date : 09.05.2024

Heard Mr. Jonathan Lalrintluanga, learned counsel for the applicant/petitioner along with Mrs. Linda L. Fambawl, learned Additional Public Prosecutor for the State respondent.

2. The instant application for enlargement of the petitioner on bail is filed under Section 37 of the ND&PS Act, 1985 r/w Section 439 of the Criminal Procedure Code.

3. The learned counsel for the petitioner submits that the instant petitioner is innocent of the charge under Section 21(c) of the ND&PS Act, since the seized article was seized from one Ashok Leyland Truck bearing Registration No. AS11 EC 5636 on 10.06.2023 and there is nothing to show the involvement of the instant petitioner who was arrested from the Scorpio vehicle which was near the seized Ashok Leyland Truck when the contraband substances were seized. He submits that on perusal of the charge sheet, it is simply mentioned that the Seizing Officer had arrested the petitioner along with another co-accused and alleged that the petitioner was the rightful possessor of the seized article, which has no basis, since the seized article was not seized from his possession.

4. The learned counsel submits that this Court in its Order dated 27.03.2024, in bail application No. 32/2024, had also granted bail to one of the accused persons on the ground that the applicant in that case is involved only to the extent that his bank account was used for deposit of the money by the other accused persons, one of whom is the brother of the applicant. The learned counsel submits that the instant petitioner is also in the same footing as the mentioned co-accused, since nothing was seized from the possession of the instant petitioner and he was arrested only on the ground that the Seizing Officer said that he was the real owner of the seized articles.

5. Mrs. Linda L. Fambawl, learned Additional Public Prosecutor, on the other hand, submits that the seized contraband substances is of huge amount weighing 5.8 kgs which were kept in hidden compartment of the vehicle. On perusal of the charge sheet, it appears that the instant petitioner is the owner of the vehicle and the driver of the vehicle is his employee. The learned Additional

Public Prosecutor has led this Court to the contents of the charge sheet, where the case I.O has given the details as to how the instant petitioner is involved in the instant case. The learned Additional Public Prosecutor also submits that the instant petitioner appears to be the main accused in the case and if he is released on bail at this stage, since he is not a permanent resident of the State, it is likely that he would abscond during the trial.

6. Having heard the submissions made by the learned counsels for both the parties, this Court finds that on perusal of the contents of the charge sheet, though there is no specific mention of the name of the owner of the vehicle, it appears that the petitioner is the employer of the driver of the vehicle from where the contraband substances were seized and therefore his involvement cannot be completely ruled out at this stage. It is also seen that the seized article is of huge quantity weighing 5.8 kgs which were concealed in the vehicle in secret compartment. It is also seen that the petitioner does not have any permanent address within the State.

7. Thus, considering the fact that charge sheet has already been filed, this Court find it appropriate that the involvement of the petitioner be looked into after giving the opportunity to the prosecution to adduce evidence and considering the huge quantity of contraband substance seized and the fact that the petitioner is not having any residence in the State, it may not be prudent to release the petitioner on bail at this stage. Thus, this Court do not find it fit to grant bail to the petitioner at this stage. However, considering the fact that charge sheet has been filed, the learned Trial Court shall take steps to dispose of the case expeditiously.

8. Accordingly, Bail Application No. 31/2024 stands dismissed and disposed of.

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JUDGE

Comparing Assistant