

GAHC030001952024



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

Case No. : Bail Appln./39/2024

Sh. Zosangzuala
S/o Lalthangpianga (L)
R/o Vengchhak, Tuikhurhlu, Aizawl District, Mizoram.

VERSUS

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

Advocate for the Petitioner : Mr C Zoramchhana

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

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG
ORDER

Date : 28-03-2024

Heard Mr. C. Zoramchhana, learned counsel for the applicant/petitioner, who has filed this bail application under Section 439 Cr.P.C. r/w Section 37 of the ND&PS Act for enlargement of the instant petitioner on bail and Mrs. Mary L. Khiangte, learned Additional Public Prosecutor.

2. The learned counsel submits that the applicant/petitioner was arrested along with four other accused persons on 23.04.2022 by the State Police personnel at Keitum Village, Serchhip District for alleged recovery of 1.278 kgs

of white powder suspected to be Heroin from the road side of Keitum - N. Vanlaiphai road. The seized contraband substance was allegedly concealed by the other three accused persons. The learned counsel submits that the applicant is not involved in the seizure of the instant contraband substance and that he along with his friend co-accused C. Cherthanga were driving the car where the other three accused persons were their passengers. However, the three passengers had already from the vehicle. That the contraband substance was not seized from the vehicle and that it belonged to the three accused persons.

3. The learned counsel submits that the case now is at its final stage where the prosecution witnesses have already adduced their evidence and arguments are to be made by the learned counsels for the parties. He submits that a perusal of the evidence adduced before the Court clearly shows the instant applicant is not involved in the case and that he is innocent. He submits that as per Section 37 of the ND&PS Act in the instant case the public prosecutor has been given the opportunity to oppose the application and that from the evidence recorded before the Court, it is seen that the instant application has not been implicated by the prosecution witnesses. The learned counsel has led this Court to the cross examination of the case I.O, where the case I.O in his cross examination had admitted that the instant applicant is not involved in the instant case. The cross examination also indicates that the applicant was innocent and did not conspire with the other accused persons for collection of the seized contraband substance from the beginning. The learned counsel submits that the case I.O in the cross examination had also admitted that the applicant did not know that the other accused persons were going to collect the contraband drugs and that he had only accompanied C. Cherthanga, as invited

by him.

4. The learned counsel further submits that the evidence of the other prosecution witnesses also clearly shows that the instant applicant is not involved in the instant case. He submits that the applicant is a permanent resident of Tuikhurhlu, Tuirial and that there is no danger of him absconding before the final disposal of the case. He submits that since all the prosecution evidence has been taken, there is no chance of him hampering with the trial by influencing any of the prosecution witnesses. He also submits that there is no likelihood of the applicant to be involved in a similar case since he has no previous conviction to prove against him nor is there any previous criminal case registered against him.

5. Mrs. Mary L. Khiangte, learned Additional Public Prosecutor on the other hand submits that on perusal of the prosecution evidence already recorded before the learned Trial Court, it is seen that the Seizing Officer who deposed as PW-1, had stated in the cross examination that the applicant/petitioner Zosangzuala was arrested along with the co-accused C. Cherthanga for their involvement in the seizure of the contraband substance.

6. In view of the above, it appears that the petitioner was aware of the contraband substance before it was seized. She further submits that the prosecution witnesses have also mentioned the name of the instant petitioner which can be seen from a quick perusal of the evidence recorded in the Court. For the aforesaid reasons, she submits that there are no sufficient grounds made out for the release of the applicant/petitioner on bail at this stage.

7. Having heard the submissions made by the learned counsels for both the parties, this Court finds that it would not be appropriate at this stage to delve thoroughly into all the prosecution evidence which was recorded before the learned Judge, Special Court, ND&PS in an application for the release of the petitioner on bail. However, as pointed out by the learned counsel for the petitioner, it appears that the case I.O himself, in the cross examination, seems to admit that there is no strong evidence of the involvement of the petitioner in the seizure of 1.278 kgs of Heroin which was seized from the road side of Keitum - N. Vanlaiphai road. It is also seen that since the prosecution evidence has been recorded, there is no chance of the petitioner hampering the trial of the case or influencing the prosecution witnesses. It was also seen that the petitioner is a permanent resident of Tuirial having filed his Epic Card along with the bail application. There is no indication of the petitioner being previously involved in any criminal case.

8. In view of the above grounds, this Court finds it appropriate at this stage to grant bail to the petitioner with a bail bond of Rs. 50,000/- with one reliable surety, who shall be to the satisfaction of the learned Judge, Special Court, ND&PS.

9. The release of the applicant on bail is also with the conditions that:-

(i) the applicant shall not commit any offence of similar nature while on bail

(ii) the applicant shall not leave the State of Mizoram unless a written permission is obtained from the learned Trial Court

(iii) the applicant shall attend Court whenever his presence is required.

10. Accordingly, Bail Application No. 39/2024 stands allowed and disposed of.

JUDGE

Comparing Assistant