

GAHC030002172024



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

Case No. : Crl.Pet./4/2024

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Neihzial Veng Rengkai, Churachandpur Sub-Division, Churachandpur, Manipur

VERSUS

State of Mizoram and Anr.
Aizawl:Officer-in-Charge
Anti Narcotic Squad
Excise and Narcotics Department
Aizawl

Advocate for the Petitioner : Mr. Lalruatpuia Sailo
Advocate for the Respondent : P.P./Addl.PP, Mizoram

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG
ORDER

Date : 10.05.2024

Heard Mr. Lalruatpuia Sailo, learned counsel for the petitioner along with Mrs. Linda L. Fambawl, learned Additional Public Prosecutor for the State respondents.

The instant petition is filed under Section 482 r/w Section 167(2) of the Code of Criminal Procedure and Section 36-A(4) of the Narcotics Drugs & Psychotropic Substances Act, 1985 (ND&PS Act) for enlargement of the petitioner on default bail by setting aside the Order dated 23.02.2024 passed by the learned Judge under ND&PS Act in Bail Application No. 143/2024.

The learned counsel for the petitioner submits that the petitioner was arrested on 10.08.2023 by the Excise & Narcotics personnel from the roadside of Edenthari, Aizawl for the alleged possession of 1480 grams of heroin. The bail application No. 143/2024 was filed and registered on 07.02.2024 for release of the petitioner on default bail before the learned Judge, ND&PS Act, Aizawl. Since no charge sheet was filed then even after the expiry of 180 days. The charge sheet was filed only on 09.02.2024. However, the learned Judge under ND&PS Act rejected the bail application on 23.02.2024 on the ground that the petitioner had filed the default bail application under Section 167 Cr.P.C without invoking Section 36-A(4) of the ND&PS Act. Aggrieved, the instant petition has been filed.

Mrs. Linda L. Fambawl, learned Additional Public Prosecutor in all fairness, admits that, the bail application was filed by the petitioner before the learned Trial Court on 07.02.2024, before the charge sheet was filed on 09.02.2024.

Having heard the submission made by both the parties, this Court finds that the petitioner was arrested on 10.08.2023 and therefore, the period of 180 days had already lapsed at the time of filing and registration of the Bail Application No. 143/2024 on 07.02.2024.

In view of the above, this Court finds that the petitioner is entitled to default bail under Section 167(2) Cr.P.C and find it fit to set aside the Order dated 23.02.2024 passed by the learned Judge under ND&PS Act in Bail Application No. 143/2024 dated 23.02.2024. The petitioner is thus granted bail with a bail bond of Rs. 50,000/- and one reliable surety who shall be to the satisfaction of the learned Trial Court. The bail of the petitioner is also subject to the following conditions:-

(i) The petitioner shall not commit any offence similar to the offence of which he is accused or suspected of.

(ii) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall fully cooperate with the investigating agency and will not hamper or tamper with any evidence.

Accordingly, Criminal Petition No. 4/2024 stands allowed and disposed of.

JUDGE

Comparing Assistant