

GAHC030003682024



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

Case No. : Bail Appln./58/2024

H. Zokhuma
Ruantlang, Champhai District
Present Add. Hunthar Veng

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Ms. Lalngaihsaki Fanai

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

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI
O R D E R

14.06.2024

Heard Mr. L. Fanai, learned counsel for the petitioner. Also heard Ms. Linda L. Fambawl, learned Addl. P.P. for the State respondent.

2. This is an second application under Section 439 Cr.P.C to release the accused/petitioner, namely, H. Zokhuma, who was arrested, in connection with SR No. 110/2024 arising out of Crl. Trial No. 605/2024 (Excise Case No. N-45/24) under Section 21(b) of the NDPS Act, 1985.

3. Pertinent to mention that this Court earlier vide order dated 29.05.2024 has rejected the bail petition filed by the accused/petitioner.

4. Ms. L. Finai, learned counsel for the petitioner submits that the petitioner is suffering from various medical ailments for which timely medicine and treatments are required. She further submits that the provisions of NDPS Act was not followed, while arresting the accused/petitioner.

5. Ms. Linda L. Fambawl, learned Addl. P.P. for the State respondents strongly opposes the prayer for the bail. She submits that there is no change circumstances pleaded in the bail application warranting entertainment of the bail application by this Court. She further submits that the argument of the petitioner to the effect that the provisions of NDPS Act were not followed while arresting the accused/petitioner was already considered and rejected by this Court while rejecting the bail prayer of the petitioner in the first round of litigation.

6. I have heard the learned counsel for the parties and I have also heard the materials available on record.

7. It appears that earlier this Court had rejected the bail petition filed by the petitioner upon perusing the materials produced by the Public Prosecutor, more particularly, to the materials which indicated that the petitioner is a habitual drug trafficker and has been previously arrested under Section 21(b) of the NDPS Act for which he is under trial.

8. It appears from the charge-sheet, which is annexed to the bail petition that during investigation, the Investigating Officer has found materials which indicate that the petitioner is a habitual drug trafficker, who had been arrested previously and while, he was under trial, he has further committed similar offence again.

9. Though, an argument has been made as regards the medical condition of the petitioner, it appears that the petitioner is already getting frequent in the jail. It further appears that while the petitioner was in custody, laboratory test were also conducted. Therefore, it is not a case that the petitioner medical conditions have not been attended to. Further, the petitioner can continue having the medicine as prescribed while being in custody. As far as the argument of the petitioner that the procedures provided under the NDPS Act has not been followed, the said contention can only be looked into during the course of trial

and cannot be deeply analyzed at the stage of bail.

10. Thus, this Court is of the considered view that no change of circumstances whatsoever has been made out by the petitioner warranting grant of regular bail. Accordingly, the bail petition of the petitioner stands dismissed.

11. With the above observation and direction, this bail petition stands disposed of.

JUDGE

Comparing Assistant