

GAHC030004172024



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

Case No. : Bail Appln./61/2024

Lalhriatpuia
Zuanguit, Aizawl

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Mr. Aldrin Zothanmawia

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

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG
ORDER

Date : 02-07-2024

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

2. This is an application filed under Section 439 Cr.P.C for the enlargement of the petitioner on bail.

3. The learned counsel submits that this is a second time the petitioner has approached this Court for bail and submits that there have been certain

developments since the previous application made by the petitioner, wherein this Court vide its Order dated 15.12.2023 in Bail Application No. 64/2024, had rejected bail to the instant petitioner. The learned counsel submits that the case is at its trial stage, wherein there are 6 (six) prosecution witnesses out of which 4 (four) prosecution witnesses have been examined and the remaining 2 (two) prosecution witnesses are the case I.O and the JMFC.

4. The learned counsel submits that the petitioner has been incarcerated for 1 year 2 days awaiting for the completion of the trial and submits that the trial is not likely to be completed in the near future since even after the 2 (two) prosecution witnesses are examined, the petitioner is to be examined under Section 313 Cr.P.C and thereafter, he is likely to have his defence witness produced before the Court. The learned counsel has relied on the judgments of the Apex Court in ***Mohd. Muslim alias Hussain Vs. State (NCT of Delhi)***, reported in ***2023 SCC Online SC 352*** and ***Rabi Prakash Vs. State of Odisha***, reported in ***2023 SCC Online SC 1109***, wherein the Apex Court had observed that long incarceration of the petitioners awaiting the completion of their trial guaranteed the petitioner to be released on bail on humanitarian grounds.

5. He further submits that the long incarceration of the petitioner in judicial custody has caused much hardship to his family, wherein his wife has to look after their minor child and is finding difficulty in earning their livelihood since the petitioner was the main bread winner of the family. He further submits that the wife and child of the petitioner has somehow managed to survive being supported by their aunt Smt. Biakliannnguri. However, the said aunt is also

having some medical difficulties and needs to undergo treatment. He further submits that due to the long incarceration of the petitioner in judicial custody, there is a strain in their marital relationship and that the petitioner may be released on bail for the above reasons.

6. Mrs. Linda L. Fambawl, learned Public Prosecutor, on the other hand has strongly objected to the release of the petitioner on bail by submitting that the trial against the petitioner is at its final stage since the remaining prosecution witnesses are both from Aizawl and there would be no difficulty in their appearance before the Court. She further submits that a perusal of the prosecution witnesses shows that there is every likelihood that the petitioner would be convicted under Section 21(b) ND&PS Act.

7. Having heard the submissions made by the learned counsels for both the parties, this Court finds that only 2 (two) prosecution witnesses are remaining to be examined, out of 6 (six) numbers of prosecution witnesses. It is also observed that the judgments cited by the learned counsel for the petitioner is with regard to the cases where the accused/petitioner were incarcerated for more than a period of 3 years in one of the cases and 7 years in the other case. It also appears to this Court that the trial of the case is at its final stage considering that only 2 (two) prosecution witnesses are remaining.

8. In view of the above, this Court find it appropriate to direct the learned Judge, Special Court, ND&PS Act to take steps for the expeditious disposal of the instant criminal trial, preferably within 3 (three) months from the date of receiving a certified true copy of the instant order.

9. Accordingly, the instant bail application stands dismissed and disposed of as above.

JUDGE

Comparing Assistant