

GAHC030005712024



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

Case No. : Bail Appln./69/2024

Lalenkawla
Bawngkawn, Aizawl, Mizoram

VERSUS

State of Mizoram and Anr.
Aizawl2:The Officer-in-charge
Anti-Narcotic Squa

Advocate for the Petitioner : Mr C Lalfakzuala

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

ORDER

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

11.09.2024

Heard Mr. C. Lalfakzuala, learned counsel for the petitioner. Also heard Mrs. Linda L. Fambawl, learned Public Prosecutor for the State respondents.

2. This is a second application under Section 37 of the ND&PS Act, 1985 read with Section 483(1) BNSS, 2023 seeking enlargement of the accused, i.e., Lalenkawla on bail in connection with Excise Case No. Ex-N 284/2023 registered under Section 21(b) of ND&PS Act, 1985.

3. The case of the prosecution is that on 17.10.2023 at 7:00 pm upon receiving information from undisclosed source stating that the petitioner has kept some quantity of suspected heroin at his residence and was intending to sell them, the residence of the petitioner was searched. Upon search of the residence, the following articles were seized:-

- 1) 143 grams of suspected Heroin kept in 12 soap cases i.e. 8 blue colour and 4 green colour soap cases.
- 2) Rs. 20,000/- as sales proceed.
- 3) Grey colour sling bag used for the concealment of S/A (2 soap cases).
- 4) A red colour bag used for the concealment of the S/A (12 soap cases).

4. The two soap cases, green and blue colour containing suspected Heroin were recovered from the sling bag, carried by the petitioner. The remaining 7 (seven) blue colour soap case and 3 (three) green colour soap cases containing suspected Heroin were recovered from a red colour bag kept inside the steel almirah of the accused/petitioner's residence.

5. Pertinent that this Court by Order dated 15.12.2023 had rejected the first bail application of the petitioner on the ground that the investigation is yet to be completed and that from the materials available on record, a prima facie case appears to have been made out against the petitioner.

6. Mr. C. Lalfakzuala, learned counsel for the petitioner submits that in the meantime the investigation has been completed and upon submission of Charge-sheet, trial has commenced, wherein out of the 6 Prosecution Witnesses, 4 Prosecution Witnesses who are material witnesses have already

been examined.

7. He further submits that the petitioner has been languishing in jail since last 329 days.

8. He accordingly submits that in view of the change circumstances, the prayer for bail ought to be allowed by this Court.

9. Per contra, Mrs. Linda L. Fambawl, learned Public Prosecutor for the State respondents submits that the trial has been progressed substantially and in fact is at the fag end.

10. I have considered the submissions made by both sides and have perused the materials available on record.

11. It appears that upon the investigation been completed and submission of Charge-sheet, trial has commenced, wherein out of the 6 Prosecution Witnesses, 4 Prosecution Witnesses have already been examined. It further appears that 4 Prosecution Witnesses, who have been examined are the material witnesses and the remaining 2 Prosecution Witnesses are formal witnesses, i.e., Judicial Officer and Forensic expert.

12. It further appears that there is no adverse antecedent available against the petitioner in the records. It further appears that the petitioner has been languishing in jail since last 329 days.

13. Considering the length of delay and the peculiarity of the facts and circumstances of the instant case, this Court considers in the interest of justice to grant bail to the petitioner.

14. Accordingly, it is provided that the petitioner named above shall be released on

bail in connection with the above noted case on furnishing bail bond of Rs. 50,000/- (Rupees Fifty thousand Only) with one surety of the like amount, to the satisfaction of the Special Court, ND&PS Act, Aizawl subject of course to the following conditions:-

- 1) Shall not leave the territorial jurisdiction or jurisdiction of the learned Special Judge, under the ND&PS Act without prior permission from him.
- 2) Shall surrender her passport, visa etc, if any, in the Court of the learned jurisdictional Special Judge, ND&PS Act, Aizawl.
- 3) Shall regularly appear before the concerned Trial Court on all dates to be fixed from time to time till the case is disposed.
- 4) Shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.

15. It is needless to clarify that, any observations made in this order is tentative and for the purpose of disposal of this bail application only and shall not be used for any other purpose or in any other proceedings whatsoever.

16. The bail application accordingly stands allowed.

JUDGE

Comparing Assistant