

GAHC030006222024



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

Case No. : AB/12/2024

Lalrothuama Thiek
Saipum, Kolasib

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Pinky Shill

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

ORDER
B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO

24.10.2024

Heard Ms. Pinky Shill, learned counsel for the applicant. None appears for the respondent although a copy of the Bail application has been furnished to the learned Special Public Prosecutor under the NIA, Mizoram, Mr. C. Zoramchhana on 16.10.2024.

[2.] On 04.10.2024, Court passed the following order:-

“Heard Mr. S K Chhetri, learned counsel for the applicant who submits that by filing this application under Section 482 of the BNSS, 2023 the applicant prays for grant of Anticipatory Bail since he apprehends that he may be arrested in connection with the FIR, lodged on 31.01.2024 by the complainant before the Officer-in-Charge, Crime & Economic Offences Police Station, Aizawl, Mizoram. A case under Section 420/403 IPC as well as under Section 138 of the Negotiable Instruments Act, 1881 was registered and being investigated into.

The learned counsel submits that pursuant to the notice received by the applicant under Section 41(A) of the Cr.P.C from the Investigating Officer, the applicant has appeared before the said authority on 04.07.2024 and on 17.07.2024. That the Investigating Officer has also seized vehicle registered in the name of the applicant Bearing Registration No. AS 01-EY 3207 (KIA Seltos). The learned counsel submits that despite cooperating with the investigation, the applicant was summoned to appear again on 22.08.2024, but the applicant apprehending that he will be arrested by the Police did not appear on the said date. The learned counsel submits that the applicant is innocent and has not committed any crime as alleged by the complainant and therefore in the event of his arrest, he will suffer irreparable injury and loss. He, therefore, submits that the applicant may be granted Anticipatory Bail and that the applicant undertakes to fully cooperate with the investigation.

In view of above, issue notice to the State returnable by 24.10.2024. Applicant shall serve notice to Mr. C Zoramchhana learned Special Public

Prosecutor, under the NIA and after obtaining acknowledgement from him, submit the same before the Registry as proof of service. The learned Special Public Prosecutor shall produce the Case Diary on the next date fixed.

Having regard to the projection made and as an ad interim measure, it is hereby directed that in the event of his arrest, the applicant be released on furnishing bail bond of Rs. 25,000/- with one surety of the like amount to the satisfaction of the arresting authority. The ad interim bail is also granted subject to the applicant fully cooperating with the ongoing investigation by ensuring his presence as and when he is required. The applicant shall also not leave the State of Mizoram, without prior intimation to the case I.O while giving the complete address of his travel.

List the matter again on 24th October, 2024."

[3.] Today, Ms. Pinky Shill, learned counsel submits that pursuant to the order of this Court dated 04.10.2024, the applicant has been asked by the Investigating Agency to report before the Chief Judicial Magistrate since the charge-sheet has already been filed on 23.10.2024.

[4.] The learned counsel submits that the applicant was not aware of the filing of the charge-sheet by the Investigating Agency. She submits that the matter has been fixed today for consideration of charge before the Court of Chief Judicial Magistrate. She submits that since the applicant has been cooperating with the investigation throughout the ad interim pre-arrest bail granted to him on 04.10.2024 maybe made absolute. In support of her submission, the learned

counsel has relied upon the Judgment dated 31.07.2023 passed by the Supreme Court in *Md. Asfak Alam -Vs- The State of Jharkhand & Anr. in Criminal Appeal No.(s) 2207/2023* arising out of *SLP (Crl.) No. 3433/2023*, and the Judgment dated 15.02.2024 passed by the High Court of Delhi in *Kashi Nath Shukla -Vs- Govt. of NCT of Delhi and Anr in Bail Application No. 1758/2022 & Crl. M.A. No. 11512/2022, Crl. M.A. No. 27389/2023, Crl. M.A. No. 3893/2024 & Crl. M.A. No.4629/2024.*

[5.] Since the learned Special Public Prosecutor is not present, this Court will have to consider the submission made by the learned counsel for the applicant and also the authorities that has been relied upon. The applicant apprehending his arrest in view of case being register under Section 420/403 IPC as well as Section 138 of the Negotiable Instrument Act, 1881 has applied for the instant Anticipatory Bail application. It is the case of the applicant that he has been summoned on several occasions by the Investigating Agency and he has duly cooperated, except for the last date i.e. 22.08.2024, wherein he did not appear since he had apprehended that he will be arrested. Despite the non appearance of the applicant, it is seen that the Investigating Agency did not arrest him. Now that the investigation is completed and the charge-sheet has been filed, it only appears that the requirement of the applicant to be in custody may not be

there.

[6.] The Apex Court in *Md. Asfak Alam (supra)* in the given facts of that case observed that once charge-sheet was filed, there was no impediment on the part of the Court to grant bail. Having regard to the nature of offence, the allegations and the maximum sentence for the offence that were likely to be invited. Accordingly, the order of the High Court refusing to grant Anticipatory Bail was set aside and the appellant enlarged on bail, subject to the terms and conditions that may be imposed by the Trial Court.

[7.] Therefore, on due consideration of the application and the materials available on record, this Court is inclined to make the ad interim pre-arrest bail absolute. It is however made clear that the same is subject to the appearance of the applicant before the learned Trial Court as and when he is required to do so. Failure to appear before the Trial Court without the permission of the Trial Court would invite consequential orders.

[8.] With the above observation and direction, the application stands disposed of.

JUDGE

Comparing Assistant