

GAHC020002542024



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

Case No. : Bail Appln./8/2024

SHRI THAONGA LOU
S/O H. SALOUMI
V/O KATAFIIMAI, PO/PS TUNJOY
SENAPATI DISTRICT, MANIPUR

VERSUS

THE STATE OF NAGALAND
NAGALAND KOHIMA

For the Petitioner(s) : Mr. A. Zho, Advocate

For the Respondent(s) : Mr. V. Zhimomi, Addl. P.P.

**BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 11.06.2024

Heard Mr. A. Zho, the learned counsel appearing on behalf of the Applicant and Mr. V. Zhimomi, the learned Additional Public Prosecutor appearing for the Respondent State.

2. This is an application for grant of bail under Section 439 of the Code of Criminal Procedure, 1973 to the accused

namely, Mrs. S. Nashu in connection with Narcotic Police Case No.02/24 under Section 21(c) of the NDPS Act, 1985.

3. From a perusal of the materials on record, it reveals that the accused herein namely Mrs. S. Nashu was apprehended on 12.12.2023 at around 3.30 PM by the Senapati Police Personnel at a cobbler shop in Senapati Town, Manipur. Subsequently, on 13.12.2023, the Nagaland Police Personnel went to the O.C., Senapati Police Station, Manipur and had taken the accused to Kohima North Police Station, Nagaland and produced before the learned Magistrate.

4. It has been further mentioned that at the time of filing of the instant bail application i.e. on 20.05.2024, the accused has already been in custody for 160 days inasmuch as the affidavit was filed on 17.05.2024 stating that the accused was in custody for 157 days. The learned counsel for the applicant submitted that taking into account that the applicant was produced before the learned Magistrate on 13.12.2023, the mandatory period of 180 days expired on 09.06.2024. He further submitted that the Special Court had also not granted extension in terms with the proviso to Section 36A(4) of the NDPS Act, 1985.

5. This Court has perused the case diary which have been produced by Mr. V. Zhimomi, the learned Additional Public Prosecutor and from a perusal of the case diary, it is also seen that the learned Court below on 03.06.2024, had not granted the extension of the mandatory period of investigation. Under such circumstances, in view of the

provisions of Section 167 of the Code of Criminal Procedure, 1973 read with Section 36A(4) of the NDPS Act, 1985 further incarceration of the accused cannot be permitted in view of the law well being settled.

6. Under such circumstances, the accused is allowed to be enlarged on bail of Rs. 1,00,000/- (Rupees one lakh) with two suitable surety of the like amount of which one shall be a local surety to the satisfaction of the learned Special Judge, NDPS, Kohima, Nagaland and the learned Special Judge shall be within his/her jurisdiction to insist on one of two surety being given by a Government servant. The conditions of bail are as under:

- (i) The accused shall not leave the jurisdiction of the Senapati Police Station, District Senapati, Manipur without prior written permission of the Officer-in-Charge of Senapati Police Station.
- (ii) The accused shall not hamper with the investigation, or tamper with the evidence of the case.
- (iii) The accused 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.
- (iv) The accused shall participate in the investigation as and when the Investigating

Officer requires her presence.

- (v) The accused during the period of bail shall not indulge in any criminal activities including any offence falling within the ambit of the NDPS Act, 1985.

- 7. Accordingly, the instant bail application stands disposed of.
- 8. The case diary so produced is hereby returned.

Sd/-

JUDGE

Comparing Assistant