

GAHC020003722024



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

Case No. : Bail Appln./12/2024

SHRI P. MALINGPAM
S/O P MALUNGTHI
R/O NGARI KHULLEN VILLAGE
PO/PS- TADUBI DISTRICT
SENAPATI MANIPUR

VERSUS

THE STATE OF NAGLAND
NAGALAND KOHIMA

Advocate for the Petitioner : KETHOKHRIENUO

Advocate for the Respondent : P.P, NAGALAND

**BEFORE
HON'BLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 23.07.2024

Heard Mr. Shimsak Raili, learned counsel for the petitioner. I have also heard Ms. S. Mere, learned P.P. State of Nagaland.

2. This is a bail application filed under section 439 Cr.PC read with section 37 NDPS Act, praying for release of the ac-

cused person P. Malingpam who has been arrested in connection with Narcotic Cell P.S. Case No.04/2019 under section 21(b) NDPS Act, 1985.

3. Earlier the petitioner had moved three bail applications before the learned Special Judge, NDPS Kohima praying for release of the accused. However, all the said three bail applications were rejected; the last one being on 20.6.2024. And this is the fourth subsequent bail application filed for release of the accused on the ground that the wife of the accused is sick and the attending Doctor advised her to go for surgery for which he need to be present with his wife.

4. The scanned copy of the trial Court record as called for has been received and I have perused the same.

5. On perusal of the bail rejection orders, it appears that the learned trial Court has considered all the grounds taken by the petitioner and after considering the records and submissions made by the learned counsel for the petitioner had rejected the bail applications for release of the accused. The learned trial Court while rejecting the bail has also observed that earlier the case against the present accused was once abated on production of death certificate. However, the same was re-opened on the prayer of the police, informing that the accused have been found alive while he was arrested in connection with some other case. The learned trial Court has also observed that under the circumstances there is high chance of the accused jumping bail again.

6. The learned P.P. submits that prima facie there is sufficient incriminating materials found against the accused and the

evidence on recorded so far also reveals that the accused is involved in the present case and therefore, prays that the accused may not be released on bail. The learned P.P. also submits that case against the present accused was once abated on production of false death certificate; A such, there is every possibility of the accused jumping bail. Hence, she vehemently object granting bail to the present accused.

7. Considering the nature of allegation and charged against the accused and the materials found on record including the deposition of the witness so far, it appears prima facie there is incriminating materials against the accused for commission of charged offence against him. Moreover, in view of the records that the accused had earlier got a criminal case against him abated on production of death certificate which later on came out to be false one, this Court is of the opinion that the present accused is entitled to be extended with the benefit of bail. In view of the observation made above, I am not inclined to grant bail to the accused at this stage. Accordingly, the bail application stands rejected.

8. Send back the LCR.

**Sd/-
JUDGE**

Comparing Assistant