WAIKHOM TONEN MEITEI Digitally signed by WAIKHOM TONEN MEITEI Date: 2020.08.21 11:02:13 +05'30'

Item Nos. 8-9

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

Bail Application No.01 of 2020

(Through Video conference)

Tung Khan Mung Zou

…. *Petitioner/s*

- Versus –

State of Manipur & Anr.

.... *Respondent/s*

With Bail Application No.02 of 2020

BEFORE
HON'BLE MR. JUSTICE MV MURALIDARAN

19.08.2020

The accused No.2 in Bail Application No.1 of 2020 and accused No.9 in Bail Application No.2 of 2020 are the petitioners before this Court and filing this Bail Application Nos. 1 and 2 of 2020 seeking to grant bail to the petitioners in FIR No.43(6) 2018 NAB-PS, U/Ss. 22(b)/22(c)/21(c)/25/29/60(3) ND&PS Act 1985 and section 27 Arms Act.

[2] The case of the petitioner in Bail Application No.1 of 2020 is that he was falsely implicated in this case as accused No.2 along with other accused persons and no recovery was made from him. But due to the statement of

the co-accused, this petitioner was arrested on 19.06.2018 and remanded him to Judicial Custody.

[3] The further case of the petitioner in Bail Application No.1 of 2020 is that he was falsely implicated and he is in Judicial Custody for more than 2(two) years, i.e., from 19.06.2018 to till date.

[4] Therefore, the petitioner in Bail Application No.1 of 2020 prayed this Court to grant bail in this case.

[5] The case of the petitioner in Bail Application No.2 of 2020 is that his name was not found place in the FIR whereas he was falsely implicated in the charge-sheet based on the statement of the co-accused on the allegation that the vehicle involved in this case belongs to this petitioner.

[6] Being the owner of the vehicle, he has been arrayed as an accused No.9 only in the charge-sheet and based on the above case, he was arrested on 19.06.2018 and for past 2(two) years, he was in Judicial Custody. Therefore, Mr. S. Satyendra, Ld. counsel for the petitioners argued that both the petitioners/accused are in Judicial Custody from 19.06.2018 and they have completed more than 2(two) years in the jail.

[7] Mr. S. Satyendra, Ld. counsel for the petitioners also pointed out that in this case, the other 3(three) accused were granted bail by this Court in Bail Application Nos.33 of 2019 on 04.11.2019, 35 of 2019 on 20.12.2019 and Bail Application No.40 of 2019 dated 20.12.2019 whereas these petitioners are in Judicial Custody for more than 2(two) years.

[8] Mr. S. Satyendra, Ld. counsel for the petitioners further states that in this case, charge-sheet was already filed before the Trial Court and the evidence of 13 witnesses were examined in this case.

[9] Once charge-sheet is filed and evidence of 13 witnesses are examined on behalf of the prosecution, the continuation of the incarceration of these petitioners is not necessary because there is no possibility for tampering or hampering the witnesses by both the petitioners/accused. Therefore, Mr. S. Satyendra, Ld. counsel for the petitioners prayed this Court to grant bail to these petitioners.

[10] Mr. H. Samarjit, Ld. PP appearing for the respondents argued that in this case, an affidavit-in-opposition was also filed on 24.02.2020.

[11] Mr. H. Samarjit, Ld. PP argued and pointed out in the counter as follows:-

"Thereafter upon direction of Mr. Mung Zou@Aric (19) they proceeded to the house of Mr. Lawrance Zou (50) at Mantripukhri and seized (i) Rs.42,00,000/- (Forty two lakhs only) kept inside one briefcase, black in colour, (ii) One Axis bank passbook bearing account No.91700067259285 in the name of Chinliankhup Ngaihte, (iii) one UBI, Moreh Branch bank passbook bearing account No.0791010104598 in the name of Chinliankhup, (iii) One SBI passbook bearing account No.11343730037 (iv) one SBI Saving Bank passbook bearing account No.30661675605 in the name of Chinliankhup Ngaihte (v) one UBI passbook bearing account No.0255010116376 in the name of Chinliankhup (vi) 3(three) SBI cheque book of SBI account Nos.35493601158, 334063585886 and 30661675605 (vii) 3 (three) Axis Bank Cheque book of Account Nos. 916020050148824 (two cheque book of same a/c no.) and 917010067259285 (viii) weighing scale at about 9.05 pm of the day from the possession of Mr. Lawrance Zou (50) S/o Lungin of Lamlongei, Mantripukhri and was subsequently arrested at about 9.50 pm from St. Cathedral Church, Mantripukhri."

[12] Based on the statements given by these accused, the other accused were arrested and seized the contraband from them. Therefore, the involvement of both the petitioners is made clear in this case.

[13] Mr. H. Samarjit, Ld. PP further submits that it is admitted fact that charge-sheet was already filed before the Ld. Trial Court and 13 witnesses were examined, but he is strongly opposing for granting bail. If these accused are granting bail by this Court, definitely, they will tamper or hamper the other witnesses who are going to give evidence in this case.

[14] Therefore, Mr. H. Samarjit, Ld. PP is strongly objecting for granting bail for both the accused and, prayed this Court to dismiss both the applications.

[15] I heard both the counsels' arguments and perused the records namely, the FIR, the charge-sheet and other relevant documents.

[16] Admittedly, the accused in Bail Application No.2 of 2020, his name was not found place in the FIR whereas while filing the charge-sheet, the petitioner in Bail Application No.2 of 2020, name was included as accused No.9.

[17] Admittedly, there was no recovery from both the accused and in fact they are in Judicial Custody from 19.06.2018 i.e., almost 2(two) years completed.

[18] This Court also agreed that the other 3(three) co-accused in this case were granted bail by this Court in Bail Application Nos.33 of 2019 on 04.11.2019, 35 of 2019 on 20.12.2019 and Bail Application No.40 of 2019 dated 20.12.2019

[19] Now both the counsels pointed out before this Court that charge-sheet was already filed in this case and 13 witnesses were examined. Therefore, nothing harm to the prosecution for granting bail to both the petitioners/accused, since already investigation was completed, charge-sheet was filed and 13 witnesses were examined by the Trial Court.

[20] Therefore, I am inclined to grant bail to both the petitioners/accused in this case.

[21] In the result,

a) Both the Bail Applications are allowed by directing both the petitioners to execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh) each with two sureties for a like sum to the satisfaction of the Special Court, NDPS, Manipur.

b) Both the petitioners/accused in Bail Application Nos.1 and 2 of 2020 are directed to report before the Special Court, NDPS, Manipur at 10.00 a.m. daily for 1(one) month.

c) Thereafter, both the petitioners/accused are directed to appear before the Trial Court on every hearing without fail.

d) If any condition is violated by both the petitioners/accused, the prosecution is at liberty to approach this Court and file a petition for cancellation of this order.

JUDGE

Larson