IN THE HIGH COURT OF MANIPUR
AT IMPHAL

BAIL APPLN. No. 11 of 2020

Smt. Rajkumari Renuka, aged about 35 years, D/O R.K. Sanatomba Singh, resident of Thangmeiband Lourung Purel Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur. PIN : 795001.

… Petitioner

-Versus-

1. The Officer in Charge, Narcotic & Affairs of Border Police Station, Manipur having its office at Imphal, Manipur. P.O. Imphal, Imphal West District, Manipur. PIN : 795001.
2. The State of Manipur through Home Secretary, Government of Manipur having its office at Old Secretariat Building, Babupara P.O. & P.S. Imphal, Imphal West District, Manipur. PIN: 795001.

… Respondents

B E F O R E
HON'BLE MR. JUSTICE KH. NOBIN SINGH

For the petitioner	::	Shri M. Devananda, Advocate
For the respondents	::	Shri Samarjit Hawaibam, GA
Date of Hearing	::	**09-12-2020**
Date of Judgment & Order	::	**21-12-2020**

JUDGMENT AND ORDER

[1] Heard Shri M. Devananda, learned Advocate appearing for the petitioner and Shri Samarjit Hawaibam, learned PP for the respondents.

[2] This is an application filed by the petitioner praying for enlarging her on bail in connection with the case registered under FIR No. 15(9)2020 NAB- PS U/S 21(C)/29/60 (3) ND & PS.

[3.1] According to the petitioner, she is the agent/ distributor of Oriflame, Teins and others, by marketing from door to door, having its Distributor Card No. 93372221. The Oriflame distribution is also done by her elder sister, Smt. R.K. (N) Mayengbam (O) Rebika Devi, Soibam Leikai, Khanglabung Leirak, Imphal East, Manipur vide tax invoice of the Oriflame, as per order placed by her sister, issued on 04-08-2020 by the Oriflame.

[3.2] In the month of March, 2020, the petitioner and her brother had some disagreement followed by a heated argument which reached a certain level that she decided to leave her house for some days to find some peace of mind. Accordingly, she went to stay in the house of one of her deceased mother's close friend, Smt. L. Binarani Devi at Moreh town who is a permanent resident of the Moreh Ward No. 7, Manipur. The petitioner's deceased mother and Smt. L. Binarani Devi were social workers (Meira Paibi) participating in many issues in the State of Manipur for bringing peace and harmony amongst the people in the hills and valley.

[3.3] Before the incident of this disagreement between the petitioner and her brother, the petitioner, her family members and her relatives went to Moreh for shopping as one of her cousin brother, Shri R.K. Surjit Singh, is working in Trade Centre, Moreh where they used to halt for one day and return back home on the next day. After few days of staying at Moreh town, the lockdown was imposed all over India including the State

of Manipur on account of COVID-19 crisis and accordingly, the petitioner could not return home at Imphal due to the restriction imposed by the authority. In the meantime, Smt. Yumnam (O) Loushambam Nonibala befriended her and she being her contemporary, the petitioner sold Oriflame product items to her for an amount of Rs. 50,000/- for which she was paid only a sum of Rs.10,000/- till now.

[3.4] After the order being issued by the Government of Manipur for unlocked COVID-19 crisis, Smt. L. Binarani Devi informed the petitioner to be present at the relative's house at Thangmeiband and therefore, she came back home immediately. Thereafter, Smt. Yumnam (O) Loushambam Nonibala started visiting the house of the petitioner.

[3.5] On 11-09-2020, in the morning, Smt. Yumnam (O) Loushambam Nonibala was present at the residence of the petitioner when she had to go to Heirok for teaching how to use teins products to one of her clients, Ms. Memthoi Devi. At the time, Smt. Yumnam (O) Loushambam Nonibala asked the petitioner that she wanted to go along with her and after reaching her client's place at Heirok and while she was teaching her client, Smt. Yumnam (O) Loushambam Nonibala was talking with some unknown persons. After completion of her work, Smt. Yumnam (O) Loushambam Nonibala requested her to visit Pallel for picking up her blankets and cloths from one person. As Smt. Yumnam (O) Loushambam Nonibala helped the petitioner at Moreh town, she agreed to help her and after reaching Pallel, Smt. Nonibala loaded blankets and cloths to the

dickey and back seats of the petitioner's vehicle but at that time, the petitioner did not move out of the vehicle as she was sitting inside the car. After loading the blankets and cloths at Pallel, the petitioner and Smt. Nonibala returned toward Imphal through Mayai Lambi Road and purchased some vegetable on the way home. The petitioner wanted to purchase some taro root (pan) while they were on the way and Smt. Nonibala told her not to buy it but the petitioner stopped the car for buying the same. When the petitioner was driving her car towards Imphal, one vehicle was driving at a great speed behind the petitioner. Smt. Yumnam (O) Loushambam Nonibala asked the petitioner to drive faster but the petitioner thought that since the vehicle behind them was in hurry, let them overtook her and therefore, they overtook her. The vehicle overtook the petitioner's vehicle and surprisingly, stopped the vehicle in front of the petitioner's vehicle without giving any notice. The petitioner and Smt. Yumnam (O) Loushambam Nonibala were asked to go the police station with them. After they reached the police station, the petitioner came to know that Smt. Yumnam (O) Loushambam Nonibala had put some narcotic drugs in her vehicle which are banned items. The petitioner never thought of checking on that unfaithful day what Smt. Yumnam (O) Loushambam Nonibala was loading in the vehicle as she never believed that Smt. Nonibala would betray her.

[3.6] The statement of the petitioner under Section 164 Cr.P.C 1973 was recorded by the learned JFMC, IW/II, pursuant to the direction of the Special Judge, ND & PS, which was sent to the Special Judge, ND&PS,

Manipur on 19-10-2020. The petitioner through her counsel, submitted her account statement of the State Bank of India after the same being collected by her uncle, Shri R.K. Ranjit Singh on 30-09-2020 which reflects the transfer of Rs.20,000/- from her cousin sister, Smt. RK. Loppa for the product purchased from her.

[3.7] The petitioner filed a case being Cril. Misc. (Bail) Case No. 226 of 2020 before the Special Court, ND&PS, Manipur for releasing her on bail but the same was dismissed on the ground that there were reasonable grounds for believing that the petitioner was guilty of such offence and that she was likely to commit any offence while on bail. While opposing the said bail by the police, it was stated that on interrogation of the petitioner, she stated that she went to Pallel with the accused, Smt. Nonibala and collected the drug consignment from Mr. Aimol Lamkhai, Pallel and that she had no idea/ knowledge about the said consignment containing the drugs. It was suspected by the police that there might be some bank account transactions between the applicant, R.K. Renuka Devi and the cartel members which would ultimately show her true picture, though she denied the involvement in the commission of the crime. It was the case of the police that whether she had knowledge or not, is to be considered at the time of charge framing and the matter will come out after investigation is over from the side of the police in this regard.

[4] Being aggrieved by the order dated 20-10-2020 passed by the

learned Special Judge, ND & PS, Manipur, the instant application has been filed by the petitioner for enlarging her on bail. In order to contest the bail application, it has been stated by the Inspector of police, NAB that during the course of interrogation of the petitioner, she stated that she had no idea that the consignments that were collected on 11-09-2020 were drugs and that they belonged to Smt. Y. Nonibala. It has been admitted by the police that no link could be found amongst the accused as the investigation was at its initial stage and there was a strong suspicion about their involvement which could be ascertained from their bank transactions.

[5] The law as regards the grant of bail is well settled by the Hon'ble Supreme Court in a catena of decisions and the main requirement is that while considering the application for grant of bail, the Court ought to apply its judicious mind and to take into account the following factors in terms of the law laid down by the Hon'ble Supreme Court:

(a) The nature of accusation and the severity of punishment in case of conviction and nature of supporting evidence;

(b) Reasonable apprehension of tempering with the witness or apprehension of threat to the complainant;

(c) Prima facie satisfaction of the Court in support of the charge.

[6] It has been submitted by Shri M. Devananda, learned counsel appearing for the petitioner that there is no any material with the police to connect the petitioner with the alleged offence except that the drugs

were found in her car for which she had given her explanation as to how the drugs were put into her car by Smt. Y. Nonibala. The petitioner is an unmarried woman and is suffering from epilepsy. Shri Samarjit Hawaibam, learned Government Advocate, relying upon the police report, has submitted that the investigation is going on in full swing and in order to ascertain their involvement, the bank accounts are being verified for which the concerned banks have been requested to provide the KYC.

[7] It is not in dispute that when two bags which were in the car of the petitioner, were checked by the police, they were found to contain 273 number of caps, each cap of which contained heroin powder No.4 packed in polythene. The petitioner in her statement made before the Magistrate had stated that she had no connection with the drugs which were seized from her vehicle. She stated as to how the bags were put into her car by Smt. Y. Nonibala. But the bail application filed before the Special Court, ND & PS, Manipur by the petitioner was rejected on 20-10-2020 on the inter-alia grounds that the seized suspected heroin powders were found concealed in the car of the petitioner. They were commercial quantities. The seizure of such commercial quantity from their possession was a serious matter. It has also been observed by the Special Court that whether the petitioner had the knowledge about the said drugs or not, could be considered at the time of charge framing and the details thereof would be known after the investigation was over. Thereafter, the instant application has been filed before this Court. The

stand of the police is almost similar to that which was taken before the Special Court. In view of the submission made by the counsel appearing for the petitioner that there is no any other material, other than that the drugs were seized from the vehicle of the petitioner, to connect the petitioner with the alleged offence, the respondent was granted time to file an updated police report as regards the ongoing investigation. But the updated report submitted by the respondents did not improve their case at all. The submission of the counsel appearing for the petitioner has some merit and substance. The police on its own admitted that no link could be found amongst the alleged consignee, Arman Bhay; the accused L. Rabichandra Singh and the petitioner. Suspecting the link, the police made an attempt to examine the bank transactions from the banks. The drugs were seized as back as on 11-09-2020 and the bank accounts are matter of records which are in the custody of the banks, the police could have by now examined the bank accounts and would have known the transactions. But there is no averment made by the police that their link was found from their bank transactions and moreover, there is no averment that the co-accused in their statements made before the police have stated that the drugs seized belonged to the petitioner and she was involved in the drug smuggling business. There is no material placed on record to show that the petitioner was involved in such business in the past for which a case had been registered against her. Moreover, while considering a bail application, it is not only the nature of the offence alleged to have been committed by

the petitioner which will have to be considered but it is also the petitioner's conduct, behavior, antecedent etc. which need to be considered by the Court. The petitioner is admittedly an unmarried woman suffering from epilepsy. There is no material on record which may influence the wisdom of the police to apprehend that the petitioner, if released on bail, may do anything tempering with the witness. The fact that two bags which were found to contain 273 number of caps, were seized from the car of the petitioner, may be a good ground for deciding the case on merit after trial. The merit of the case is not before this Court, as it is an application for grant of bail and not the appeal preferred against her conviction. While considering the bail, this Court needs to consider the law laid down by the Hon'ble Supreme Court in the light of the facts and circumstances of the present case.

[8] In view of the above, the application is allowed with the direction that the petitioner shall be released on bail subject to the following conditions:

(a) The petitioner shall furnish a personal bond for a sum of Rs.50,000/- (Rupees ten thousand) only with a surety of like amount to the satisfaction of the learned Special Judge, ND & PS, Manipur;

(b) The petitioner shall not leave the State of Manipur without the leave of this Court;

(c) The petitioner shall co-operate with the police in its further investigation;

(d) It is open to the police to move an application for modification of the order or for cancellation of the bail in the event of any material being found by them during the course of investigation to connect the petitioner with the alleged offence.

JUDGE

FR / NFR

Victoria

Yumkham Rother

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