

IN THE COURT OF ADDL. DISTRICT & SESSION JUDGE-III, AIZAWL

Crl. Misc. Appln. No. 22/2014 A/o Crl. Tr. (P) No. 133/2014 u/s 380/34 IPC.

Pazawna S/o Laltanpuia
Chawnpui, Aizawl : Applicant

Versus

State : Respondent

Date of Order : 27.02.2014

PRESENT

Smt. Helen Dawngliani, AD& SJ-III

APPEARANCE

For the Applicant : Mr. Nei Chunga Darlong
Mr. H. Lalchhuanawma, Advocates
For the State : Mrs. Rose Mary, Addl. PP

ORDER

This Application has been filed u/s 439 R/w 440 CrPC for reduction of surety and modification of the bond.

Heard the Id. Counsels.

Mr. H. Lalchhuanawma, the Id. Counsel for the accused petitioner submitted that vide Order dt.11.2.2014 the Id. Chief Judicial Magistrate, Aizawl had granted bail to the accused/applicant by fixing a Surety who should be a Government Servant duly certified by their Controlling Officer with a bond of Rs. 10,000/-. The Id. Counsel argued that the applicant belongs to an economically weaker section of the society and in support of his submission, the Id. Counsel had placed on record photocopy of the BPL Ration Card of the applicant and as such he is not in a position to find a Surety fixed by the Id. Chief Judicial Magistrate. According to the Id. Counsel though bail was granted to the applicant way back on 11.2.2014, due to the said inability the accused continued to be detained in custody which according to the Id. Counsel amounts to rejection of bail itself and violative of the right of the accused. The Id. Counsel therefore prays that Surety may be reduced to any permanent resident of Aizawl having Voter's Identity Card with the same bail bond.

Mrs. Rose Mary, the Id. Addl. PP in her usual fairness submitted that keeping in mind the concept of bail, the prayer made by the applicant appears to be reasonable. However, as a matter of precaution, in order to secure the presence of the applicant before the Court, EPIC along with recent passport size photograph of the Bailer may be demanded.

Heard the Id. Counsels and perused the record. The record of the Id. Trial Court shows that the accused has read upto class-IX and does not have any particular occupation. I have also perused the BPL Family Ration Card wherein the name of the applicant figured at Sl. No. 4. Considering the background of the accused, I am convinced by the submission of the Id. Counsel for the accused that he is unable to find sufficient Surety. The record shows that the accused was enlarged on bail on 11.2.2014 but till date he continues to be in custody as he is unable to find sufficient Surety. Due to the inability of the accused to find a sufficient Surety, despite being granted bail he continues to suffer detention for nearly 1 month thereafter. This would surely amount to rejection of bail itself and it would prejudice the interest of the accused.

Accordingly, the Surety which was fixed earlier vide Order dt.11.2.2014 by the Id. Chief Judicial Magistrate, Aizawl is modified as follows: -

The accused Pazawna shall be enlarged on bail with a bond of Rs. 10,000/- with 1 reliable Surety of the like amount. The Surety must be a resident of Aizawl and he/she should produce the original EPIC and submit the photo copy after comparison along with 2 recent passport size photographs.

Send back the Case Record of Crl. Tr. 133/2014 u/s 380/34 IPC to the Court of Mr. R. Malsawmdawngzuala, Judicial Magistrate First Class, Aizawl.

With the above Order, the application stands disposed off.

Sd/- HELEN DAWNGLIANI
Addl. Dist & Sessions Judge-III,
Aizawl Judicial District, Aizawl.

Memo No. AD & SJ/2014 : Dated Aizawl, the 27th February, 2014
Copy to :

1. Pazawna through Counsel Mr. Nei Chunga Darlong, Advocate.
2. Addl. PP, Aizawl.
3. R. Malsawmdawngzuala, Judicial Magistrate First Class, Aizawl.
4. Registration Section.
5. Guard File.
6. Case Record.

P E S H K A R