

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

Bail Appln. No. 473/2014

(Arising out of Crl. Tr. No. 979/2013 u/s 376(1) IPC)

Lalnghinglova : Applicant

Versus

State of Mizoram : Opposite party

Date of Order : 16.05.2014

BEFORE

Smt. Helen Dawngliani, Addl. District & Session Judge

ORDER

This Bail Application u/s 439 CrPC have been filed by the accused Lalnghinglova through his Counsel.

Heard the Id. Counsels.

Mr. S.L. Thansanga, Id. Counsel for the Applicant in his usual fairness submitted that the accused admitted to have had sexual intercourse with the prosecutrix resulting in her pregnancy. The Id. Counsel submitted that the prosecutrix had sexual intercourse with the accused for money in return. When the parents of the prosecutrix learned about the pregnancy they submitted an FIR but later the informant, father of the prosecutrix submitted an application for withdrawal of the FIR which was duly witness by the VCP of Zanolawn. The Id. Counsel submitted that the said letter was enclosed to their earlier application for bail which was filed before the Id. Trial Court. According to the Id. Counsel, the said letter for withdrawal of the FIR is of relevance for the purpose of bail though it may not have a bearing on merit of the case. The Id. Counsel further submitted that the accused is a native of Mizoram and there is no danger of his hampering with the investigation since Charge Sheet have already been filed. The Id. Counsel therefore pray to enlarge the accused on bail.

On the other hand, Ms. Rosy Lalnuntluangi, APP submitted that it is not proper for the Id. Counsel to make a statement that the prosecutrix was given money in return for sexual intercourse. The Id. Counsel submitted that the offence against which the accused is facing trial is a serious offence and it is not proper to enlarge the accused on bail at this stage.

The Hon'ble Rajasthan High Court in the case of **State of Rajasthan vs. Valchand @ Baliay** reported in **1978 Cri.LJ 195** has held as follows:

"The basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, by the petitioner who seeks enlargement on bail from the court."

I have perused the Case Record. It is seen from the record that the Investigating Officer while recording his observation of the accused person and known Police Reports have given a

negative remark of the accused having pass criminal record, being wanted in any other case, being likely to escape bail and being likely to commit crime or threatened victim/witnesses. Since Charge Sheet have been filed, it is clear that the accused is no longer required for investigation. The record also does not contain any material to show that the accused has criminal antecedents. As per the record, the accused is a permanent resident of Zanolawn Kawn Veng.

Considering the character and antecedents of the accused and the fact that Charge Sheet has already been laid against the accused, I am of the opinion that reasonable ground exist to allow the application.

Accordingly, accused Lalnghinglova is enlarged on bail with a bond of Rs. 20,000/- and 1 reliable Surety of the like amount. The Surety must be a permanent resident of Aizawl duly certified by the Local Council cocerned. The Surety must also submit his/her recent passport size photigraph along with copy of Voter's Identity Card (EPIC) and produced the original for comparision.

The bail conditions are: -

1. He shall attend court regularly in terms of the bond executed by him.
2. He shall not commit any offence or an offence similar to the offence of which he is accused of.
3. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade them from disclosing such facts to the court or tamper with evidence.
4. He shall not leave the State of Mizoram without prior permission of the Court.
5. He shall not behave in any manner which could intimidate the prosecutrix and her family or disturb their normal living.

Accused shall appeared before this Court on 28.5.14.

With the above Order, the application stands disposed off.

Sd/- HELEN DAWNGLIANI

Addl. District & Session Judge
Aizawl Judicial District, Aizawl

Memo No..... AD & SJ (A)/2014 : Dated Aizawl, the 16th May, 2014

Copy to :-

1. Lalnghinglova through Counsel Mr. S.L. Thansanga, Advocate.
2. Addl. PP, Aizawl.
3. Registration Section.
4. Guard File.
5. Case Record.
6. Calendar Judgment.

P E S H K A R