

IN THE COURT OF ADDL.DISTRICT & SESSION JUDGE, AIZAWL
Bail Appln. No. 496/2014
(Arising out of CrI. Tr. No. 420/2014 u/s 420/120B/364A/395 IPC)

Haider Hussain Majumder : 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 has been filed for enlargement of the Applicant on bail.

Heard the Id. Counsels as well as the Investigating Officer who appeared along with the original Case Diary.

Mr. R. Laltanpuia, Id. Counsel for the Applicant submitted that the Petitioner was arrested on 26.3.2014 by Police in connection with Vairengte PS Case No. 12/14 u/s 420/120B/364(A)/395 IPC and has been detained in judicial custody till date. The Id. Counsel submitted that the name of the Petitioner is not mentioned in the FIR and that the FIR was lodged only on 15.3.2014 whereas the offence complaint of was allegedly committed between 24.2.14 and 27.2.14. The Id. Counsel submitted that the delay in filing FIR is not explain and the same vitiates the whole proceeding. The Id. Counsel submitted that the alleged crime was committed in Silchar which is beyond the jurisdiction of Vairengte PS and as such the said PS could not have registered the case on receipt of the FIR. The Id. Counsel argued that the Petitioner is married to a Mizo woman and is working as a Automobile Mechanic at Aizawl and as such there is no danger of absconding. The Id. Counsel further submitted that the accused does not have any criminal antecedents and the fact that the accused have been in judicial custody for more than 1 month shows that he is no longer required for investigation. The Id. Counsel submitted that they undertake to comply with the conditions that may be imposed while granting bail and thus pray to enlarge the accused on bail.

On the other hand, Mrs. Rose Mary, the Id. Addl. PP assisted by the Investigating Officer submitted that though the actual offence was committed outside Mizoram, the offence originated within the jurisdiction of Vairengte PS and as such no illegality was committed in registering a case upon receipt of the FIR. The Id. Counsel submitted that considering the nature of the offence it is pre mature to enlarge the accused on bail at this stage.

Heard the Id. Counsels and perused the Case Diary. The object of detention of an accused person is primarily to secure his/her presence at a time of trial and is available to receive sentence in case he is found guilty. If his/her presence at the trial would reasonably be ensured other than by his arrest or detention, it would be unjust and unfair to deprive the accused of his liberty during pendency of criminal proceedings.

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 carefully perused the Case Diary keeping in mind the considerations that may be taken in case of bail along with the decision of the Hon'ble Rajasthan High Court as highlighted above. Considering the character and antecedents of the accused, the nature of the offence, the stage of the investigation and the unlikelihood of him fleeing from justice, I am of the considered view that reasonable ground exist to allow the application.

Accordingly, accused Haider Hussain Majumdar is enlarged on bail to the satisfaction of the Id. Chief Judicial Magistrate, Kolasib with the following conditions: -

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 make himself available to the investigator as and when required and shall fully co-operate with the investigation.

Needless to say, violation of any of the conditions will entail cancellation of bail.

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. Haider Hussain Majumdar through Counsel Mr. R. Laltanpuia, Advocate.
2. Addl. PP, Aizawl.
3. Chief Judicial Magistrate, Kolasib District, Kolasib.
4. Registration Section.
5. Guard File.
6. Case Record.
7. Calendar Judgment.

P E S H K A R