

IN THE COURT OF ADDITIONAL SESSIONS JUDGE
AIZAWL JUDICIAL DISTRICT, AIZAWL, MIZORAM.

Present : Shri Vanlalenmawia, MJS
Additional Sessions Judge,
Aizawl Judicial District, Aizawl.

Anti Bail Application No. 37 of 2015

Kolasib Case No. 107 of 2015

Shri Lalhunthara
S/o Lalchhanhimi (Seni)
R/o Vairengte Kudam Veng
Kolasib District, MizoramApplicant

-Versus-

State of Mizoram. ..Opposite Party.

APPEARANCE

For the State : Shri Joseph Lalfakawma, Addl. P.P.
Smt. Lalremthangi, Asst. P.P.
For the accused : Shri R. Lalhmingmawia, Advocate.

Hearing : 15.9.2015
Order delivered on : 16.9.2015

ORDER

The application is filed by the petitioner under Section 438 of Cr PC seeking for bail.

2. In short, the case of the petitioner is that on 8.8.2015, his sister-in-law Sabeka-i asked him to take her to Bualpui. On the way back from Bualpui, his sister-in-law brought local made liquor and drank it. His sister-in-law demanded to have sexual intercourse with him, to which he fulfilled the desire of his sister-in-law. But, when the petitioner came to know that his sister-in-law filed FIR against him, he

had reason to believe that he may be arrested in connection with non-bailable offence. Hence, he sought for pre-arrest bail.

3. Ad-interim bail was granted to the petitioner on 10.8.2015. By the order dt.25.8.2015, this Court directed the Case IO to appear in person with his Case Diary on 15.9.2015 fixing the day for hearing. However, the Case IO did not turn up and also did not produce the Case Diary.

4. I heard the learned Counsel Shri R. Lalhmingmawia appearing for the petitioner. I also heard learned Addl. P.P. Shri Joseph Lalfakawma.

5. The learned Counsel Shri R. Lalhmingmawia submitted that the petitioner came to seek pre-arrest bail since allegation is made against him that he had raped his sister-in-law in Kolasib Police Station Case No. 107 of 2015 under Section 376 of IPC and he has reason to believe that he may be arrested in connection with non-bailable offence. According to the learned Counsel, the petitioner is innocent of the charges.

6. The learned Counsel also submits that the petitioner is a driver maintaining his old aged mother and four minor children. Any absconding from justice does not arise in the event of his enlargement on bail. He is ready to appear before the investigating agency at any time.

7. On the other hand, I also heard the learned Addl. P.P.

8. Since the Case Diary is not available before me, I cannot know whether the Case IO of the instant case needs detention of the petitioner for the purpose of investigation. In the circumstances, I am compelled to give pre-arrest bail to the petitioner.

9. Accordingly, the petition is allowed on the following conditions:-

- (i) the petitioner shall make himself available for interrogation by the Case I.O. as and when required;
- (ii) he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to

dissuade him from disclosing such facts to the Court or to any police officer;

- (iii) he shall not leave Mizoram without the previous permission of the Chief Judicial Magistrate, Kolasib.

10. If the petitioner fails to comply with the above conditions, the Addl. P.P. can file application for cancellation of pre-arrest bail by stating the failure of compliance with the above conditions by the petitioner.

11. The petition is allowed, as indicated above.

Order prepared and delivered in the open court on this 16th day of September, 2015 under my hand and seal.

Sd/- VANLALENMAWIA
Addl. Sessions Judge,
Aizawl Judicial District,
Aizawl, Mizoram.

Memo No. _____/AD&SJ(A)/2015 : Dated Aizawl, the 16th September, 2015
Copy to: -

1. Lalhunthara through Counsel Sh. R. Lalhmingmawia, Advocate.
2. Sessions Judge, Aizawl Judicial District, Aizawl.
3. Chief Judicial Magistrate, Kolasib District, Kolasib.
4. Superintendent of Police, Kolasib District, Kolasib.
5. Sh. Joseph Lalfakawma, Addl. PP.
6. Officer-in-Charge, Kolasib Police Station.
7. Registration Section.
8. Guard File.
9. Case Record.
10. Calendar Judgment.

P E S H K A R