

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. 5 of 2017

West Phaileng P.S. Case No. 22 of 2016

Shri Malsawmtluanga
S/o Lalhmingthanga,
R/o Republic Vengthlang, Aizawl,Applicant

-Versus-

State of Mizoram.Opposite Party.

APPEARANCE

For the State : Smt. Lilyparmawii Hmar, Addl. P.P.
Ms. Venus H. Zomuankimi, APP
For the accused : Shri. Saihmingliana Sailo, Advocate.

Hearing : 16.2.2017
Order delivered on : 16.2.2017

ORDER (O R A L)

The application filed by the petitioner under Section 438 of Cr PC for seeking pre-arrest bail is disposed off.

2. In the instant case, there is an FIR booked under sections 457/380 of IPC.
3. The Case I.O. appears and produces Case Diary.
4. The learned Counsel Shri Saihmingliana Sailo submits that the petitioner is innocent. According to him, the petitioner did not know whether the

materials he had bought from accused T.C. Lallawmkima was stolen property or not. He also submits that the petitioner will not abscond from justice.

5. On the other hand, the Addl. PP Smt. Lilyparmaawii Hmar for the State submits that the petitioner had involvement in the instant case inasmuch as he had received the stolen property from accused T.C. Lallawmkima.

6. I have given my consideration to the submission made by the learned counsels for the parties. I have also perused the Case Diary. On careful perusing the Case Diary, I do not find any reason why Anticipatory Bail Application filed by the petitioner will not be allowed. In the case of Siddharam Satlingappa Mhetre (Supra), the Hon'ble Supreme Court, while laying down the relevant consideration for exercise of power under section 438 Cr PC, has observed at para 113 as under:-

'113. Arrest should be last option and it should be restricted to those exceptional cases where arresting the accused is imperative in the facts and circumstances of that case. The court must carefully examine the entire available record and particularly the allegations which have been directly attributed to the accused and these allegations are corroborated by other material and circumstances on record.'

7. After considering the submission of the rival parties and perusing the Case Diary produced before me, I do not think that prejudice will cause to the investigating agency. Hence, the Anticipatory Bail Application is allowed to the petitioner with the following conditions-

- (i) a condition that the petitioner shall make himself available for interrogation by the Case I.O. as and when required;
- (ii) a condition that 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 Case I.O.;

- (iii) a condition that he shall not leave Mizoram without prior permission of the Case I.O.

Order is prepared and delivered in the open court on this 16th day of February, 2017 under my hand and seal.

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

Memo No. _____AD&SJ(A)-II/2017 : Dated Aizawl, 16th February, 2017
Copy to: -

1. Malsawmtluanga through Counsel Shri Saihmingliana Sailo, Advocate.
2. Sessions Judge, Aizawl Judicial District, Aizawl.
3. Addl. PP, Aizawl.
4. Superintendent of Police, Mamit District, Mamit.
5. Officer-in-Charge, West Phaileng Police Station.
6. Investigating Officer through Officer-in-Charge, West Phaileng Police Station.
7. Registration Section.
8. Guard File.
9. Case Record.
10. Calendar Judgment.

P E S H K A R