

Party Name : SMT MITA MALAKAR Vs THE STATE OF TRIPURA

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THE HONBLE MR. JUSTICE S.C.DAS

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Heard learned senior counsel, Mr. A. K. Bhowmik, assisted by learned counsel, Ms. A. Banik for the petitioner and learned Additional P.P., Mr. R. C. Debnath for the State-respondent. This is a petition under Section 438 of Cr.P.C. praying for bail of accused-petitioner, Smt. Mita Malakar, in the event of her arrest in connection with Bishalgarh P.S. Case No. 135 of 2014, registered under Section 409/468/471/34 of the IPC. Case Diary is produced. Perused the Case Diary. It is alleged in the FIR that huge Government money under different scheme, such as MGNREGS, PDF, TFC etc. was defalcated by the public servants of Bishalgarh R.D. Block, who were supposed to implement the scheme. The accused petitioner Smt. Mita Malakar was working as a Junior Engineer attached with Bishalgarh R.D. Block at the relevant point of time, i.e. 2012-2013, when the public fund was misused and/or embezzled. The internal audit report which has been submitted along with the case diary shows specific observation in the report that the petitioner has the complicity in the crime as alleged. Learned senior counsel, Mr. Bhowmik has submitted very candidly that the petitioner is a woman having two children and she all along discharged her duty with all sincerity and devotion. Her husband is also an Assistant Professor of the Agricultural College and she hails from a very respectable family. He has also submitted that some observations may have been made in the internal audit report and unless a copy of the said audit report is supplied, the petitioner cannot take her defence as to whether those observations prima facie make out any case against her or not. What is the specific allegation against the accused that has not been mentioned in the FIR. No doubt the FIR is in short and one cannot expect that the FIR will be in details. But it is also expected that the materials on the basis of which allegation have been made must be produced before the Court so that the accused may know what is the allegation against him or her. I find no justification at all to grant anticipatory bail to this accused petitioner in view of the gravity of the offence. Hence, the bail prayer stands rejected. It is observed that the investigating agency must produce in the case record before the Magisterial Court the particulars/gist of allegations of defalcation as against particular accused so that the accused also may know what is the allegation for which he/she is alleged to have involved with the alleged crime. Accordingly, the bail application stands disposed of. Send a copy of this order to the learned Sub-Divisional Judicial Magistrate, Bishalgarh and also a copy of this order to the I/O through learned Additional P.P. Case Diary is returned to the learned Additional P.P.