

Party Name : SANTANU DAS Vs STATE OF TRIPURA

---

THE HONBLE MR. JUSTICE S.C.DAS

---

This is a petition under Section 438 of CrPC praying for bail of accused-petitioner, Santanu Das in the event of his arrest in connection with West Agartala Women P.S. Case No.142 of 2014 registered under Sections 448 and 376(1) of IPC.

Heard learned counsel, Mr. S. Chakraborty for the petitioner and learned P.P. Mr. A. Ghosh for the State respondent. Learned counsel, Mr. P. Roy Barman represented the *de facto* complainant.

Case diary is produced. Perused the case diary.

The victim woman(name kept withheld) herself lodged the FIR on 13.11.2014. The allegation made in the FIR is in details. It is alleged in the FIR that the victim and the accused-both are engineers working as Sr. Manager in the Tripura State Electricity Corporation Limited(TSECL) from 1997 and since both are colleague, they had good intimacy and had visiting terms. On 06.11.2013 at about 8.00 pm the accused visited her house at Joynagar and taking advantage of her loneliness he forcefully committed rape on her. She was greatly shocked and told him that she should report the incident to her parents and also to the police station but the accused promised that he will marry her soon thereafter. When her father came and became furious hearing about the incident he assured her father also to marry her within a short time. Thereafter on several occasions he came to her house and taking the advantage of her loneliness he enjoyed her sexually and on all occasions though she resisted but the accused assured to marry her. After a few months she with her parents went to the house of the accused for fixing the date of marriage but the accused was trying to defer it. On 11.05.2014 she along with her father and cousin brother went to the residential quarter of the accused at Kumaritilla at about 7.00 am and asked him to fix the date of marriage but the accused denied to marry her. She could realize that the accused played fraud with her and giving false assurance enjoyed sex with her.

It is submitted by learned counsel, Mr. Chakraborty that the accused and the victim woman both are educated engineers, sufficiently grown up and according to the allegations made they have voluntarily undergone intercourse on different dates and the victim having a full-grown woman, consciously undergone the sexual act for which the accused alone cannot be held guilty and in the given facts and circumstances it cannot be a case of rape.

Learned P.P. also fairly submitted that the allegations so far made and the materials collected by I.O., it shows that they were consenting party to the sexual act but the accused committed cheating on the victim woman.

Learned counsel, Mr. Roy Barman submitted that the act of the accused spoiled the life of a young lady and so he cannot be dealt with leniently.

After going through the FIR, the statement of the victim under Section 164 of CrPC as well as the evidence collected by the I.O. during investigation, *prima facie*, I find that the accused having knowledge that he will not ultimately marry her committed cheating and therefore I cannot at this stage brush aside that there is no case at all. This observation of the Court is preliminary in nature and should not influence the ultimate fate of the case. However, at this stage I find there is material that the accused cheated the victim and the allegation of cheating is a bailable offence.

In the facts and circumstances, I do not like to grant anticipatory bail to the accused but if he so desires he may surrender before the Court of learned Chief Judicial Magistrate and pray for bail, if so advised.

The bail application accordingly stands disposed of.

Send a copy of this order to the Court of learned Chief Judicial Magistrate, West Tripura, Agartala.

Case diary is returned to learned P.P.