

Party Name : SWARBA KR. JAMATIA Vs THE STATE OF TRIPURA

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THE HONBLE MR. JUSTICE S.TALAPATRA

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Heard Mr. S.Sarkar, learned counsel appearing for the petitioner as well as Mr. A.Ghosh, learned Public Prosecutor appearing for the State.

This is an application under Section 438 of the Cr.P.C for pre-arrest bail to the petitioner in connection with Killa PS case No. 2016 KLA 011 under Section 302 of the IPC and Section 27 of the Arms Act.

The petitioner approached the Additional Sessions Judge, Gomati District, Udaipur but the Additional Sessions Judge has rejected his prayer on observing that it is a pre-mature stage of investigation and the crime is very serious in nature.

Mr. Sarkar, learned counsel submitted that there is no iota of material against the petitioner except the statement made by another accused in course of interrogation that the present petitioner guided them by arranging the hired killer and the fund. According to Mr. Sarkar, the petitioner and the said accused is in inimical relation from much before the occurrence.

Mr. Ghosh, learned Public Prosecutor however has vehemently opposed the prayer for bail stating that the petitioner is absconding from his original place of living. The police has so far failed to book him and his custodial interrogation is essentially required in this case. This Court finds from the case diary that one of the accused persons during interrogation has clearly revealed the involvement of the present petitioner. Therefore, the contention of Mr. Sarkar, learned counsel on the face of it cannot be relied. However, having regard to that the petitioner is a teacher working in a Government school, this Court is of the view that the petitioner may be enlarged on bail subject to condition that on every alternate day he shall report to the Officer In-charge of the Killa police station or the Investigating Officer for the next 4(four) months and he shall not leave his original place of residence, as described in this petition without leaving information about his place of journey or place of temporary stay to the Investigating Officer.

However, it is made clear that if substantial evidence is surfaced in the investigation, the Investigating Officer may apply for cancellation of the bail for custodial interrogation of the petitioner. That apart, the petitioner may be examined by the police in the period of bail, as granted by this Court.

It is expected that the petitioner shall co-operate with the Investigating Agency. If any non-cooperation is registered by the Investigating Agency, he may also file an application seeking cancellation of bail to the Magistrate. The Magistrate is given authority in the appropriate circumstances, after affording opportunity of explanation to the present petitioner to cancel the bail in the interest of investigation.

In the event of arrest of the petitioner, the petitioner shall be enlarged on bail in connection with Killa PS case no. 2016 KLA 011 on furnishing a bail bond of Rs.20,000/- supported by 2(two) sureties of the like amount to the satisfaction of the arresting police officer and subject to the above conditions. That apart, the petitioner shall not make any attempt to influence the investigation or coerce any person in any manner from revealing or disclosing the material facts relating to the investigation or to the transaction of the offence.

Accordingly, this petition is allowed

Case diary be returned to Mr. Ghosh, learned Public Prosecutor.

Copy of this order be furnished to Mr. A.Ghosh, learned Public Prosecutor.