

**HIGH COURT OF TRIPURA
AGARTALA**

BA No.15 of 2018

Jalendra Tripura on behalf of
Accd. Ananta Tripura

----Appellant(s)

Versus

The State of Tripura

----Respondent(s)

For Appellant(s) : Mr. S. Lodh, Adv.

For Respondent(s) : Mr. S. Sarkar, P.P.

HON'BLE MR. JUSTICE S. TALAPATRA

Order

29/03/2018

Heard Mr. S. Lodh, learned counsel appearing for the appellant who represents the accused namely Ananta Tripura as well as Mr. S. Sarkar, learned P.P. appearing for the state.

In terms of the order dated 23.03.2018 Mr. S. Sarkar, learned P.P. has produced the case diary and the translated version of statements as recorded under Section 161 of the Cr.P.C.

This is a petition under Section 439 of the Cr.P.C. for granting bail to the accused person in connection with Karbook P.S. Case No.2018 KBK 001 under Section 376/417/493/313 of the IPC. Since 24.02.2018 the accused person namely Ananta Tripura is in the custody.

Mr. Lodh, learned counsel appearing for the appellant has submitted that from bare reading of the written complaint filed by the victim (name withheld), it would be apparent that it was a long standing love affairs and they had consensual sex but later on when the relation became strained the said complaint dated 12.02.2018 has been filed implicating the accused person for committing rape and other offences. Mr. Lodh, learned counsel has drawn the attention of this court that even the police is not certain whether the offence is covered by Section 376 of the IPC or by Section 417 of the IPC.

Be that as it may, Mr. S. Sarkar, learned P.P. has strongly opposed the prayer for bail and has contended that in view of the development of the law, it is immaterial whether the sexual intercourse 'without consent' has taken place in a love affair or not. It is the sexual intercourse without consent alone is sufficient to come under Section 376 of the IPC.

Having perused the materials so far collected by the investigating agency including two statements of the victim as recorded under Section 161 of the Cr.P.C. as well as the statements of some other closely related persons who are examined by the police, this court is of the view that it should not inferred at this stage that there was sexual intercourse without consent. So far the other offences under Section 393 or 313 is concerned, these are remote to the matrix of allegations.

Having observed thus, it is directed that the accused person namely Sri Ananta Tripura shall be released on bail on furnishing of a bail bond of Rs.40,000/- supported by one surety of the like

amount to the satisfaction of the Sub-Divisional Judicial Magistrate, Amarpur subject to the condition that the accused person shall not leave his ordinary place of residence without permission of the Sub-Divisional Judicial Magistrate, Amarpur and he shall report to the Investigating Officer or the Officer-in-Charge of the Karbook Police Station twice in a week for the next 8(eight) weeks. Further, he shall not try to allure or coerce any person seized of material information in respect of the case under investigation by the police.

This application therefore stands allowed.

However, the accused person is permitted to leave his ordinary place of residence during the period from 13.04.2018 till 19.04.2018 as Mr. S. Lodh, learned counsel appearing for the appellant has pointed out that that period is supposed to be availed to appear for the entrance examination for Post Graduate course in the Delhi Academy of Medical Sciences.

JUDGE