

**HIGH COURT OF TRIPURA
AGARTALA**

A.B 125 of 2020

For Petitioner (s)	:	Mr. S. Datta, Adv. Mr. S. Banik, Adv. Mr. Saha, Adv
For Respondent(s)	:	Mr. R. Datta, P.P.

HON'BLE MR. JUSTICE S.G. CHATTOPADHYAY

Order

29/10/2020

This is an application under section 438 of Code of Criminal Procedure, 1973 seeking release of the petitioner namely Sudhan Debbarma on bail in anticipation of his arrest in connection with Jirania PS case No. 2020 JRN 26 under section 302/201 of the Indian Penal Code.

I have heard Mr. S. Datta, appearing along with Mr. S. Banik and Mr. S. Saha on behalf of the petitioner as well as Mr. R. Datta, learned P.P appearing for the state respondent.

Learned P.P has produced the case diary before this court.

Submission on behalf of the petitioner is that neither the FIR nor any other prosecution paper reflects the name of Sudhan Debbarma, the petitioner and as such the petitioner is in no way connected to the case. It is contended by Mr. Datta,

learned counsel of the petitioner that for the last few days police has been raiding his house frequently for his arrest in spite of his having no connection with the alleged offence and therefore he has approached this court by way of filing this petition under section 438 Cr.P.C for protection from police arrest.

Mr. R. Datta, learned P.P on the other hand draws the attention of the court to the case diary which according to him contains adequate incriminating materials in support of the involvement of the petitioner in the alleged offence of murder. It is further argued by Mr. Datta, learned P.P that his earlier applications seeking anticipatory bail under section 438, Cr.P.C was rejected by the Sessions court by order dated 29.06.2020 of the learned Addl. Sessions Judge (Court No. 2) of West Tripura Judicial District, Agartala as well by this court by order dated 09.07.2020 in A.B No. 72 of 2020.

It is further contended by Mr. Datta, learned P.P. that the release of the petitioner on bail at this stage will seriously impair the progress of investigation. Another submission on behalf of the prosecution is that the petitioner has been absconding to evade police arrest as a result of which the I.O has moved the court to learned Jurisdictional Judicial Magistrate First Class (Court No. 6), Agartala for declaring the

petitioner proclaimed offender and issuing arrest warrant against him.

On the grounds aforesaid, Mr. Datta, learned P.P urges the court for dismissal of this petition filed under section 438 Cr.P.C.

I have perused the case diary and all other materials available on record. This court after perusal of the case diary had turned down the application filed by the applicant seeking release on bail under section 438, Cr.P.C and in its order dated 09.07.2020 observed that materials available on record revealed that conversations took place between the petitioner and co-accused Smt. Bina Rani Debbarma immediately before the murder of the victim took place. While rejecting the bail application of the petitioner, this court gave liberty to the petitioner to appear before the investigating officer and state the actual state of affairs to establish his innocence if he so desired but the petitioner absconded after the offence took place and ultimately the investigating officer moved the court for declaring him proclaimed offender and issuing arrest warrant against him.

Having scrutinized the case diary and all other incriminating materials available against the petitioner, this

court is of the considered view that the benefit of pre arrest bail cannot be extended in favour of the petitioner at this stage.

His petition under section 438, Cr.P.C therefore stands rejected.

Return the case diary to Mr. R. Datta, learned P.P.

JUDGE

