

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. No. 73 of 2021

*Sri Amal Dey on behalf of accused
Sri Ranjan Datta*

.....Petitioner(s)

Versus

The State of Tripura

.....Respondent(s)

For Petitioner(s) : Mr. P. Roy Barman, Sr. Adv.
Mr. K. Nath, Adv.
Mr. Anupam Baidya, Adv.
Ms. N. Ghosh, Adv.

For Respondent(s) : Mr. S. Ghosh, Addl. P.P.

HON'BLE MR. JUSTICE S.G. CHATTOPADHYAY

Order

08/10/2021

Applicant is Ranjan Datta, Son of late Suresh Chandra Datta of Badarmokum of Udaipur who is an FIR named accused in RK Pur PS case No.2021 RKP 139 registered for offence punishable under sections 326, 325, 307 read with section 34 IPC has filed this application under sections 439 Cr.P.C for granting bail to him. The applicant has been undergoing imprisonment in jail since his arrest on 09.09.2021.

[2] By means of filing this application under section 439 Cr.P.C. applicant has sought for his release on bail on any condition.

[3] I have heard Mr. P. Roy Barman, learned senior advocate appearing along with Mr. K. Nath, Mr. Anupam Baidya and Ms. N.

Ghosh, advocates for the applicant. The State respondent is represented by Mr. S. Ghosh, learned Addl. P.P.

[4] The genesis of the case is rooted in the FIR lodged by Md. Inuj Miah of Kakraban, Udaipur with the officer in charge of RK Pur police station on 08.09.2021 alleging, inter alia, that on the 8th day of September, 2021 at about 2 O'clock in the afternoon complainant Inuj Miah along with his neighbor Mafiz Miah was walking from Jamtala towards Udaipur Chakbazar. On the way they noticed a huge gathering in front of the party office of CPI(M). Some of the members of the crowd had thrown some slang words to the complainant and his companion Mafiz Miah. A minute thereafter, applicant Ranjan Datta along with the other FIR named accused persons attacked the complainant and Mafiz Miah with deadly weapons. The complainant somehow escaped from their attack. But they caught hold of Mafiz Miah and brutally assaulted him. Apprehending that Mafiz Miah was dead, they left him on the street. The local people informed the nearby fire service station. A fire service vehicle lifted Mafiz Miah from the street to the District hospital at Udaipur in critical condition. On the very day, he was referred to Agartala for better treatment. The complainant gave the names and address of all the seven assailants of Mafiz Miah in the FIR on the basis of which R.K. Pur PS case No. 2021 RKP 139 for offence punishable under sections 326, 325, 307 read with section 34 IPC was registered and investigation was taken up.

[5] In the course of investigation, police arrested applicant Ranjan Datta on 09.09.2021 and he was put to jail. He has been undergoing detention since then.

[6] Appearing for the petitioner, Mr. Roy Barman, learned senior advocate contends that on 8th September, 2021 several similar incidents were reported to various police stations across the State in which arrests were made selectively. Counsel contends that the applicant has no connection with the alleged assault on Mafiz Miah. He is totally innocent. Despite doing no offence at all, applicant has been suffering detention for about a month in jail. Learned senior advocate argues that all other FIR named accused have been enlarged on bail by the Chief Judicial Magistrate, Gomati Judicial District by various orders passed by him. Therefore, applying the principle of parity accused applicant Ranjan Datta should also be released on bail since allegations against all are same. Counsel submits that the injured who was allegedly assaulted by the FIR named accused has also been discharged from hospital after few days' treatment. Therefore, the allegation that his assailants intended to kill him does not gain ground. Counsel, further submits that it is the settled position of law that bail is the rule which can be denied only on justifiable grounds and detention during investigation should not be treated as punitive detention. It is contended by learned senior advocate that the applicant has been undergoing detention for a month. During this period, investigating agency has examined almost all witnesses and there is no likelihood of

hampering investigation by the accused. Learned senior advocate, therefore, urges the court to grant bail to the accused applicant.

[7] Mr. S. Ghosh, learned Addl. P.P on the other hand vehemently opposes the bail application on the ground that even though same charge of offence was initially brought against the present applicant by the complainant in his FIR, during investigation serious incriminating materials have been gathered against him which demonstrate that the said accused had taken the lead role in committing the offence. Counsel submits that an innocent armless man who was crossing the area by chance was brutally assaulted by the applicant who was armed with deadly weapons and as a result of which Mafiz Miah was about to die. Learned Addl. P.P submits that investigating agency has also collected video clip of the occurrence apart from recording the police statements of the eye witnesses which support the charge against the accused applicant. Mr. Ghosh, learned Addl. P.P. further contends that the injury reports contained in the case diary would demonstrate that injured Mafiz Miah was initially taken to the District hospital and considering his alarming condition he was immediately shifted to AGMC and GBP hospital at Agartala for better treatment. He was treated in the trauma care centre of the hospital. The medical officer has recorded his injuries in detail in his report which goes to show that all his injuries were grievous in nature. The location of the injuries indicate that he was a victim of severe physical assault. Learned Addl. P.P submits that the facts of the given case indicate that

the assailants had no respect for law. They had beaten an innocent passerby on a public street in broad day light without the slightest provocation. Learned Addl. P.P, therefore, urges for cancellation of his bail.

[8] Perused the entire case diary which contains the police statements of the complainant, injured as well as the statement of other eye witnesses. Most of the witnesses have stated that the applicant and another accused namely Bhaktar Miah had taken the lead role in assaulting Mafiz Miah. There is no material on record to suggest that there was any kind of provocation from the side of the injured. The injury reports contained in the case diary also indicate that he received several injuries of serious nature on his forehead, left eye and lip which required several stitches and he also received injuries on his shoulder, forearm and ankle which support the allegations that he was beaten severely by his assailants. The doctor opined in his report that the injuries were grievous in nature which was caused by blunt object. It is true that purpose of detention of an accused during investigation of a non bailable offence is to enable the investigating agency to conduct a free, fair and uninterrupted investigation and such detention in no case should be treated as a punitive detention.

[9] But, in the given case, charges against the accused applicant is serious for which severe punishment is prescribed under the law. The investigation is in progress. There is all likelihood of his influencing the witnesses and hampering the investigation in the event of his release on

bail. Though, the other accused booked under the same charge has been released on bail, the investigation has revealed that the present accused had taken lead role in the commission of the alleged offence. Therefore, he cannot claim bail on the ground of parity.

[10] In view of the seriousness of the charge, the materials collected against the applicant during investigation, the punishment prescribed for the offence and the role played by the accused in commission of the offence, this court is of the view that a full and fair investigation is likely to be affected if the accused is released on bail at this stage. Therefore, his bail application stands rejected.

[11] It is, however, made clear that the observations made above are made for the limited purpose of consideration of the present application and such observations shall not have any bearing on the trial of the case or for consideration of any other application on merit.

[12] In terms of the above, the bail application is disposed of. Return the case diary.

JUDGE