
(2015) 10 TP CK 0024
In the Tripura High Court
Case No : Bail Appln. No. 105 of 2015

Oli Mia

APPELLANT

Vs

The State of Tripura

RESPONDENT

Date of Decision : 01-10-2015

Acts Referred:

Arms Act, 1959 — Section 25, 26, 27, 28
Criminal Procedure Code, 1973 (CrPC) — Section 439
Explosive Substances Act, 1908 — Section 3, 4, 5, 6
Penal Code, 1860 (IPC) — Section 120(B), 120B, 121, 121A, 122

Citation : (2015) 10 TP CK 0024

Hon'ble Judges : Deepak Gupta, J.

Bench : Single Bench

Advocate : D.K. Daschoudhury, Advocate, for the Appellant; R.C. Debnath, Addl. P.P., for the Respondent

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—This is an application for grant of bail filed by the applicant-petitioner Md. Oli Miah on behalf of the accused, Md. Numan Miah (hereinafter called as the accused) in respect of Kailashahar P.S. Case No. 08 of 2015 (Case No. ST 44(U/K) of 2015) registered under Section 302 read with Section 120(B) IPC.

2. The prosecution story is that co-accused Purabi Nath @ Jaba wanted that her brother and mother should give some no objection for mortgaging of land so that she could get a loan to run a business. According to the prosecution mother and her brother Pallab Nath refused to give such no objection. Consequently, Jaba @ Purabi Nath got very angry. According to the prosecution Purabi Nath had an affair with Md. Numan Miah and she therefore, asked Numan Miah to get her brother killed and thereafter Md. Numan Miah, Purabi Nath, Md. Nawaj Sharif and Md. Jamir Ali conspired to kill Pallab Nath and while killing Pallab Nath they also killed one other person namely, Anjan Deb.

3. Earlier this Court had rejected the bail application of the petitioner on 23rd June, 2015 but with liberty reserved to the accused to apply to the trial Court for grant of fresh bail at the time of framing of charge.

4. The learned trial Court has framed charge against the accused and others under Section 302 read with Section 120B of the IPC. The learned trial Court has also given a very detailed judgment rejecting the prayer of the accused for grant of bail.

5. The accused is facing trial for murder. The case is now fixed for evidence of the prosecution in the months of November, 2015 and December, 2015. Since the trial Court has found sufficient ground to frame charge against the accused, I do not find that this is a fit case where bail should be granted to the accused since the offence is serious in nature.

6. In Tripura, the Code of Criminal Procedure (Cr.P.C.) has been amended and by the impugned amendment, after section 439 section 439A has been added which reads as follows:-

"439A. Power to grant bail.--Notwithstanding anything contained in this Code, no person,--

(a) who being accused of or suspected of committing an offence under sections 120B, 121, 121A, 122, 123, 124A, 153A, 302, 303, 304, 307, 326, 333, 364, 365, 366, 366A, 366B, 367, 368, 376, 386, 387, 392, 394, 395, 396, 397, 399, 412, 436, 449 and 450 of the Indian Penal Code, (45 of 1860) and sections 25, 26, 27 and 28 of the Arms Act, 1959 (54 of 1959) and sections 3, 4, 5 and 6 of the Explosives Substances Act, 1908, (Act VI of 1908), is arrested or appears or is brought before a Court; or

(b) who, having any reason to believe that he may be arrested on an accusation of committing an offence as specified in clause (a) has applied to the High Court or Court of Session for a direction for his release on bail in the event of his arrest, shall be released on bail or, as the case may be, directed to be released on bail except on one or more of the following grounds, namely:-

(i) that the Court including the High Court or the Court of Session for reasons to be recorded in writing, is satisfied that there are reasonable grounds for believing that such person is not guilty of any offence specified in clause (a);

(ii) that such person is under the age of sixteen years or a woman or a sick or infirm person;

(iii) that the Court including the High Court or the Court of Session, for reasons to be recorded in writing, is satisfied that there are exceptional and sufficient grounds to release or direct the release of the accused on bail."

7. At this stage, it cannot be said that there are reasonable grounds for believing that no offence under Section 120B or 302 IPC is made out against the accused. There are no exceptional reasons to release the accused on bail. Therefore, I find

no merit in the bail application.

Accordingly, the bail application is rejected.