

**HIGH COURT OF TRIPURA
AGARTALA**

Criminal Petition No.04 of 2023

Sri Goutam Kundu and others

..... Petitioner(s)

V E R S U S

Union of India and others

.....Respondent(s)

For Petitioner(s) : Mr. B.N. Majumder, Sr. Advocate,
Mr. D.J. Saha, Advocate,
Mr. B. Paul, Advocate,
Mr. Sajit Chandra Sen, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, DSGI.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

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24.04.2023

Heard Mr. B.N. Majumder, learned senior counsel for the petitioners and Mr. Bidyut Majumder, learned counsel for the respondents No.1 and 3, Union of India and Central Bureau of Investigation.

[2] These petitioners are accused in Special(TPID) No.03 of 2022 in which charge-sheet has been filed by the Central Bureau of Investigation (CBI, for short) on 26.08.2022. The petitioners are lodged in Presidency Central Correctional Home, Alipur, Kolkata, West Bengal in connection with RC No.39(S)/2014/CBI/SCB/Kolkata and Enforcement Directorate PMLA No.03 of 2015. Impugned herein is the order dated 02.03.2023 (Annexure-5) by which the CBI has been directed to ensure production of the accused before the learned Court of Special Judge, Unakoti District, Kailashahar.

[3] Petitioners have taken a plea that the relevant provisions of the Tripura Video Conferencing (Conduct of Proceedings including recording of Evidence and Remands of accused in the Trial Courts) Rules, 2018 do permit production of accused persons through video conferencing/online mode which the learned trial Court has not taken into account. It is also urged that the prayer for production through video conferencing made by the petitioners has not been rejected by any cogent reasons. There is no legal embargo to get the production of the accused before the court through video conferencing. Petitioners are in custody at Kolkata in connection with another case lodged by the CBI and PMLA since 2015. Learned counsel for the petitioners has also referred to an order of this Court dated 30.09.2021 passed in Criminal Petition No.36 of 2021 in support of their petition made before the learned trial Court vide [Annexure-8]. Learned counsel for the petitioners submits that without dealing with the contention of the petitioners the direction to produce the petitioners physically have been passed earlier on 05.01.2023 and reiterated by the impugned order dated 02.03.2023. Therefore, the petitioners have invoked the inherent powers of this Court under Section 482 of Cr.P.C for quashing of the order and appropriate directions upon the learned trial Court for their production through video conferencing/digital mode as and when required. Such a course would secure the ends of justice.

[4] Learned counsel for the CBI has opposed the prayer. However, he submits that production of the accused persons through video conferencing is also possible and permissible as sufficient facilities are available at the Presidency Central Correctional Home, Alipur, Kolkata.

[5] I have considered the submissions of learned counsel for the parties, taken note of the pleadings on record and also gone through the impugned order. The limited facts as noted above are not in dispute. It appears that after filing of the charge-sheet, petitioners are required to be produced in connection with Special(TPID) No.03 of 2022 for remand by the learned Special Judge, Unakoti District, Kailashahar. As informed, since the facilities for production of the accused persons through virtual mode is existent both at the Presidency Central Correctional Home, Alipur, Kolkata and also in the Sessions Court at Unakoti District, Kailashahar, the learned trial Court may not insist upon physical production of the accused on the next date. This would also obviate unnecessary burden upon the prosecuting agency and optimize the use of online facilities for production of accused, existing at both the places. However, this Court leaves it to the discretion of the learned Special Judge to direct physical production of the accused as and when necessary for future dates.

[6] In that view of the matter, the impugned order dated 02.03.2023 so far as it relates to the production of the accused persons physically before

the learned Special Judge, Unakoti District, Kailashahar is quashed. The learned Special Judge, Unakoti District, Kailashahar shall pass necessary orders for production of the accused through video conferencing on the next date. The existing facilities in the Sessions Court/DLSA, Unakoti should be utilized for the said purpose. Necessary communications also be sent to the Superintendent, Presidency Central Correctional Home, Alipur, Kolkata sufficiently in advance for making the arrangements. Let the order be communicated to the Court of the learned Special Judge, Unakoti District, Kailashahar by today evening through fax.

[7] The instant petition is allowed in the manner and to the extent indicated above.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ