

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Pet. No. 05 of 2023

1. Sri Amit Bhowmik, son of late Dhirendra Chandra Bhowmik, resident of Water Supply Road, South Dhaleswar, P.O.-Dhaleswar, PS-East Agartala, District-West Tripura, PIN-799004.

2. Sri Arjun Debnath, son of late Pramod Debnath, resident of Paoramura, P.O.-R.K. Pur, Udaipur, PS-R.K. Pur, District-Gomati, Tripura.

3. Sri Suman Majumder, son of Sri Dilip Majumder, resident of Singhicherra, P.O. + P.S.-Khowai, District-Khowai, Tripura.

.....Petitioner(s).

V E R S U S

The State of Tripura

.....Respondent(s).

For Petitioner(s) : Mr. S. Lodh, Advocate,
Ms Riya Bhowmik, Advocate
Ms A Shah, Advocate.

For Respondent(s) : Mr. Ratan Dutta, Public Prosecutor
Mr. S Debnath, Addl. PP.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

ORDER

01.06.2023

The petitioners are accused in connection with Raishyabari PS Case No. 2020RSB09 dated 27.12.2020 (Annexure-1) registered under Sections 120(B)/121/124(A)/387 of the IPC and Section 10 & 13 of the Unlawful Activities (Prevention) Act, 1967 [UA(P)A, 1967 for short] along with other accused persons, pending before the Court of the learned Sessions Judge, Dhalai Judicial District, Ambassa. By the impugned

order dated 20.01.2023 passed in ST(Type-I)17 of 2022 the application for release of mobile phones and cash amounting to Rs.15,00,000/- seized by the Investigating Agency has been rejected by the learned Trial Court.

2. Learned counsel for the petitioner submits that these petitioners were apprehended while sitting in a Bolero Vehicle for handing over the cash amount of Rs.15,00,000/- to the accused persons who are members of the NLFT extremist group as extortion money for carrying on their business on instructions of their boss.

3. The prosecution was launched on the written complaint of Er. Rangchak Tripura on 27.12.2020 before the Officer-in-charge of Raishyabari Police Station inter alia, alleging that while he was discharging his duties as Junior Engineer in the office of the Block Development Officer, Raishyabari RD Block, he got various voice calls and voice messages from an unknown whatsapp number (880-1842783331) on 20.12.2020 on his whatsapp number. The miscreants sent him voice messages in Kokborok language stating that they wanted to talk to him through whatsapp voice calls. It was also conveyed that ignoring or rejecting the voice calls would cause harm and he would face consequences like recent Ganganagar incident. When he spoke with the miscreants they

inquired about different government development works that was supervised by him and after that the miscreants started asking him for extortion money.

4. It is submitted that the police has submitted charge sheet against the accused persons including the petitioners for committing offence under Sections 120(B)/121/124(A)/387 of the IPC and Section 10 & 13 of the UA(P)A, 1967. It is further submitted that the petitioners have sought for release of the seized articles including the cash amount of Rs.15,00,000/- as per seizure list dated 20.01.2021 except the Bolero vehicle which has already been released under Section 451 CrPC. It is stated that the petitioners had preferred discharge petition under Section 227 of the CrPC which was rejected by the learned Trial Court. The challenge thereto in CrI. Rev. P. No. 21 of 2023 has also failed.

5. Learned counsel for the petitioners submits that the mobile phones and cash amount may be ordered to be released upon sufficient security so that it can be put to use by the petitioners and be produced at the relevant time whenever called for. The impugned order may accordingly be set aside.

6. Learned Public Prosecutor has filed an affidavit in reply, inter alia, stating that during investigation, the investigating officer arrested 7 accused persons, including the 3 petitioners, who were arrested on

20.01.2021. It is submitted by the learned PP that during investigation the investigating officer seized (i) one Samsung Galaxy S10E mobile Cell Phone of Amit Bhowmik and SIM card No. 9436136384/9612439207; (ii) One Samsung Duos mobile Cell Phone of Amit Bhowmik with SIM card No. 60099342239; (iii) One OPPO ID mobile Cell Phone of Suman Majumder with SIM Card No.9863422598/9089079215; (iv) One Xiaomi mobile cell phone of Arjun Debnath and SIM card No. 8794891976; and (v) Rs. 15,00,000/- Indian Currency, etc.

7. It has been further submitted by the learned PP that during investigation on 10.02.2021 the investigating officer seized vehicle bearing Registration No. TR-01-M-0707 (Mahindra Bolero) but the same was released to its actual owner vide order dated 05.02.2011.

8. It was also submitted that in the course of investigation from secret sources it transpired that a group of NLFT extremists led by Bikram Bahadur Jamatia @ Bomtom was camping on the other side of the Indo-Bangla Border of Raishyabari area and with the help of NLFT collaborators they were trying to extort money from civilians residing in Raishyabari areas, particularly construction agency engaged in construction of border roads/fencing etc. It was revealed that one Sona Mohan Tripura @ Mitrafa was acting as a collaborator of the banned NLFT extremist group for

collecting extortion money and the petitioners, namely, Amit Bhowmik and Arjun Debnath had been approached by the extremist group for giving money as safeguard from extremist attack.

9. It was further submitted that based on secret information that some transaction of money would take place at Raishyabari market area on 20.01.2021 the investigating officer carried out a raid and managed to detect one Bolero vehicle bearing registration No. TR01M0707 at Hospital Choumuhani, Raishyabari and found the petitioners sitting inside the vehicle. On search, one bundle of Indian currency notes amounting to Rs.15,00,000/- wrapped in paper was found. On query, the petitioners stated that as per instruction of their Boss they were waiting to hand over the money to Sona Mohan Tripura @ Mitrafa. It has been stated that on interrogation the petitioners admitted that they were paying this amount to the banned NLFT extremist group out of fear to protect their labourers from the attack of the NLFT extremists. The accused persons have admitted that their mobile phones contain call lists of their conversation with the banned NLFT (BM) extremist group and the accused persons tried to assist the banned organization by providing money instead of informing the police which is punishable under the provisions of the UA(P)A, 1967.

10. During the course of investigation it was further revealed that Sri Rangchak Tripura was threatened by Sri Sumen Kanti Tripura @ Hero, alleged NLFT(BM) extremist and spoke of extortion. Sri Joydeb Saha and Sri Nupur Banik of Raishyabari were examined and it was revealed that Sumen Kanti Tripura @ Hero had threatened them by calling and sending voice calls in their mobile No. 8413847408 and 7630971841 from 9485428612 which belonged to NLFT(BM) extremist Sumen Kanti Tripura @ Hero and two other mobile No. 8801575454367 and 8801842783331 and on several occasions spoke of extortion with a view to send money to banned NLFT (BM) extremist group. Another witness namely Sri Bikram Saha of Gandacherra has revealed that the alleged miscreant had also threatened him and demanded Tax money in the name of an extremist group by calling him on his mobile No. 9485143907 on 23.12.2020, 26.12.2020, 27.12.2020, 31.12.2020 and 02.01.2021, respectively.

11. Learned public prosecutor has strongly opposed the prayer stating that these articles and cash are valuable material exhibits to be produced during trial and if they are released the electronic items like mobile phones can be tampered with and the original currency notes may not be available to be made exhibits if it is released and expended by the accused persons. The seized articles may also be forfeited depending upon

the outcome of the trial under the provisions of the relevant Acts. As such, the prayer may be rejected.

12. I have gone through the submissions made by the learned counsel for the parties and taken note of the materials placed on record. The petitioners have been charge sheeted for the offences under Sections 120(B)/121/124(A)/387 of the IPC and Section 10 & 13 of the UA(P)A, 1967. The articles which were seized from the accused-petitioners are described hereunder:

- (i) One Samsung Galaxy S10E mobile cell phone of petitioner Amit Bhowmik with SIM number 9436136384/9612439207;
- (ii) One Samsung DUOS mobile cell phone of petitioner Amit Bhowmik with SIM number 6099342239;
- (iii) One OPPO ID mobile cell phone of petitioner-Suman Majumder with SIM number 9863422598/9089079215;
- (iv) One Xiaomi mobile cell phone of petitioner-Arjun Debnath with SIM number 8794891976.
- (v) Indian currency notes for Rs.15,00,000/- along with one Mahindra Bolero vehicle bearing registration No. TR01M0707 was also seized on 20.01.2021.

The mobile phones and cash amount of Rs.15,00,000/- are valuable exhibits which are to be adduced during prosecution.

13. During course of investigation, the CDRs of the mobile numbers of the accused person Amit Bhowmik were analyzed and found

that they had communicated with the user of the mobile number 6033242681 of Sona Mohan Tripura which was currently being used by Badanjoy Tripura and 7628862174 of accused Samaresh Debbarma at several times during the period 18.01.2021 to 20.01.2021 before they were detained along with Rs.15,00,000/- by the police at Raishyabari. From the Customer Application Form of 6033242681 it was seen that the SIM bearing that mobile number had been obtained by the accused Sona Mohan Tripura on 20.03.2020. Thereafter, the SIM card was given to one Bangladeshi national namely, Badanjoy Tripura, an inhabitant of Kestamani Para, Silchari, District-Khagrachari, Bangladesh in the month of March, 2020 to assist him in carrying out all kinds of extremist activities such as extortion, kidnapping, etc., inside the Indian territory on behalf of the NLFT(BM) group. During investigation, it was also learnt from reliable sources that Badanjoy Tripura is an active member of the NLFT(BM) group led by one Bikram Bahadur Jamatia @ Bomtom, SS COAS.

14. As noted above, the investigating agency has, after analysis of the CDRs of the Mobile number 6009932239 of the petitioner-Amit Bhowmik, found that he had communicated with the mobile number 6033242681 of accused-Sona Mohan Tripura, a member of the banned organization, which cell phone was being used by Badanjoy Tripura, an active member of the NLFT(BM). The communications between the

numbers 6033242681 and 7628862174 showed that these accused persons, Sona Mohan Tripura and Badanjoy Tripura, used to communicate with each other frequently and the interchange of mobile phone and SIM cards show a strong link between the two. The investigating agency thus collated the materials collected during the investigation and thus submitted charge sheet that a *prima facie* case under Sections 120(B)/121/124(A)/387 of the IPC and Section 10 & 13 of the UA(P)A, 1967 has been established against the accused persons, including these three petitioners.

15. These electronic items are susceptible to be tampered with and as such may lose its evidentiary value, if released during pendency of the trial. Moreover, the currency notes, if released, may be consumed and expended and as such, may not be available to be produced in its original form when called for by the learned Trial Court during evidence. As such, even with the condition of security, release of these material objects may affect the case of the prosecution which is based on the recovery of these articles and cash. Moreover, these articles and cash may be subject to forfeiture depending upon the outcome of the trial. As such, this court does not find any error in the order of the learned Trial Court in rejecting the application for release of articles and cash in favour of the petitioners under section 451 of the CrPC.

16. Accordingly, the instant petition being devoid of merit is dismissed.

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

(APARESH KUMAR SINGH), CJ

HIGH COURT OF TRIPURA



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**SIDDHARTHA
LODH**



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