

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C)(HC) No.02 of 2024

Sri Abani Das

.....Petitioner(s);

Versus

The State of Tripura & others

.....Respondent(s).

For Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate.

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

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

Order

16/07/2024

Heard Mr. Samarjit Bhattacharjee, learned counsel for the petitioner and Mr. Samrat Ghosh, learned Additional Public Prosecutor for the respondents-State.

The instant writ petition for recovery of the daughter of the writ petitioner who is said to be a minor from the custody of the private respondent in particular respondent No.6 led to passing of several orders by this Court upon the investigating agency to trace and produce the minor victim girl. Some of the orders dated 04.03.2024, 12.03.2024 and 20.05.2024 passed from time to time on the basis of Counter Affidavit and Additional Counter Affidavit filed by the respondents are being quoted hereunder:

“04/03/2024

We are not satisfied with the steps taken by the investigating agency as indicated in the affidavit filed by the Under Secretary to the Home Department pursuant to our orders passed earlier in the matter of recovery and production of the minor daughter of the petitioner in respect of which Kamalpur PS Case No.2023/KMP/119 has been instituted under Section 363 of the IPC. Prior to that, another Kamalpur PS Case No.2023/KMP/109 was instituted on 18.11.2023 under the relevant provisions of IPC along with Section 4 of the POCSO Act, 2012 against the named accused persons. This affidavit does not disclose as to what steps have been taken towards apprehension of the accomplices involved in the abduction of the girl though

it appears that the police is aware of the name and details of the border tout who is said to have helped the accused in fleeing the country.

Investigating agency are obliged to undertake the statutory steps in connection with investigation and apprehension of the accused persons and specially in a matter which relates to abduction of a minor girl.

List the matter again on **12.03.2024**.”

“12/03/2024

An additional counter affidavit has been filed by the respondents. Mr. Raju Datta, learned Public Prosecutor has referred to the statements made at paragraph Nos.4 to 8. It indicates that one Chittaranjan Das, who had accompanied the accused Sri Rubel Das and victim girl and helped them to flee away from Tripura, has been arrested on 23.02.2024. Further Biswanath Das @ Biswajit Das @ Bappa who helped this accused person namely Rubel Das to flee away to Bangladesh and was involved in offering assistance in hiding the minor girl along with the accused person and also providing logistic and financial support to the accused person Rubel Das, has been arrested on 02.03.2024 though he has been granted bail by the learned Sub-Divisional Judicial Magistrate, Dhalai District vide order dated 03.03.2024. One Uttam Malakar who was in constant contact with the accused person Sri Rubel Das over telephone after 14.12.2023 i.e. the second act of kidnapping, has also been arrested on 06.03.2024. The Investigation Officer (IO) has made a request to the learned Special Judge (POCSO), Kamalpur, Dhalai to issue warrant of arrest against accused Rubel Das. The Home Department, Government of Tripura, taking into consideration these facts and the investigation which has revealed that the victim girl and the accused Rubel Das are in Bangladesh in the house of one Sudhangshu Das, Village-Harishyama, P.S-Madhabpur, Sub-District – Habiganj, Country-Bangladesh, taken up the matter with the competent authority for recovery of victim girl from the house of Sudhangshu Das by requesting the Deputy Secretary, GA(Political) Department. Further inquiries are being made through DM & Collector, Unakoti District, Kailshahar relating to the recovery of the victim girl and furnishing a factual report on the fact and verify the nationality and residential status of Sri Rubel Das and victim to enable the Home Department to take up the matter with Government of India, Ministry of External Affairs. The IO has also raided the house of accused person to arrest his family member i.e. father, mother and brother of the accused Rubel Das but they were not available in their house. The neighboring people have informed the IO that they have crossed border with the help of said Biswanath Das. The respondents have prayed for some time to recover the victim girl from Bangladesh.

Mr. P. Roy Barman, learned senior counsel for the petitioner submits that since diligent steps have been taken by the Investigating Authority in regard to recovery of the minor girl, the matter may be adjourned for some time so that the process of recovery of the minor girl and the apprehension of accused from a neighbouring country can be brought to a logical conclusion.

Upon hearing of the learned Public Prosecutor for the State and after going through the additional counter affidavit, it seems that the Investigating Authority has taken prompt diligent steps for apprehending the accomplices and recovery of the minor girl and also for the arrest/repatriation of the accused Rubel Das. However, since the minor girl has been taken to Bangladesh by accused Rubel Das, they are in the process of seeking their extradition through the proper channel.

In that view of the matter, the case is adjourned to **16.04.2024**.”

“20/05/2024

The last affidavit filed pursuant to the order dated 22.04.2024 by respondents No.4 & 5 does indicate the steps taken during investigation, but the fact remains that neither the main accused Rubel Das nor the victim girl with whom he had fled to the neighbouring country have been recovered though the matter has been taken up by the Home Department of the State Government with the Ministry of Home Affairs, Government of India.

Learned Advocate General who is present in Court along with Mr. Raju Datta, learned Public Prosecutor both assure that the matter would be taken up at the highest level with the counterpart in the Government of India so that the girl is recovered and the accused is deported to India for being brought to justice.

Accordingly, the matter is adjourned to **25.06.2024.**”

The last affidavit filed by the respondents is of 24.06.2024 where the following statements have been made at paragraph 3, 4, 5 & 6:

“3. That this Hon’ble High Court of Tripura by an Order dated 20.05.2024 was kind enough to request the Learned Advocate General of the State to take up the matter at the highest level with the counterpart in the Government of India so that the girl is recovered and the accused is deported to India for being brought to justice. Accordingly, the Learned Advocate General issued an Advisory vide No.2(11) AG/TRIP/2021/503-4 dated 27.05.2024 requesting the State Government to take up the matter immediately with the Ministry of External Affairs and at the local level with Bangladesh Deputy High Commission for necessary coordinated approach so that immediate Red Corner Alert or such other step can be taken for nabbing the accused/culprits with the help of Bangladesh Authorities and it was also mentioned in the said advisory that the process may also require SOP under the existing International Agreement with Bangladesh for deportation/extradition.

4. That as per the Advisory dated 27.05.2024 issued by Learned Advocate General, on 31.05.2024 a proposal has been sent to Superintendent of Police (Serious Crime), Tripura to issue YELLOW NOTICE for recovery of victim namely Tanushree Das from Bangladesh. A copy of the proposal to issue Yellow Notice dated 31.05.2024 is annexed hereto and marked as **Annexure-R/9.**

5. That the Superintendent of Police, Dhalai District, Ambassa submitted a detailed report vide No.4668/SP(CS)/DLI/ABS/2024 dated 11.06.2024 before the Assistant Inspector General of Police (Crime), Tripura, Agartala wherein detailed information regarding the investigation conducted by the Investigating Officer for recovery of victim Tanushree Das was mentioned. A copy of the detailed report dated 11.06.2024 sent by Superintendent of Police, Dhalai District, Ambassa is annexed hereto and marked as **Annexure-R/10.**

6. That the investigation officer on 23.06.2024, arrested one Sri Rahul Das, elder brother of the principal accused Rubel Das, S/o Sri Dilip Das, resident of West Kanchanbari, PS Fatikroy, Unakoti. During interrogation of said Rahul Das informed that accused Rubel Das and victim presently staying in the house of one Sudhangshu Das, Village Harishyama, Bangladesh.”

The progress of the case as it stands at the same stage since the accused-respondent No.6 and the victim girl both have not been brought back through the machinery of law to the State of Tripura despite steps being taken by the investigating authorities of the State of Tripura through the Government of India.

This being the position, it would not be desirable to keep the writ petition pending as the process of extradition depends upon the treaty between the party states and also cooperation on the part of the authorities of the neighbouring state in the exercise. As such, we deem it proper to dispose of the writ petition with a direction upon the investigating authorities to take all legal steps for bringing back both the victim girl and the accused by the process of law within a reasonable time as far as possible so that custody of the victim is restored in the hands of the petitioner-father and the accused is also brought to justice. It is expected that respondents would undertake this exercise preferably within a period of 5(five) months from the date of receipt of copy of this order.

The instant writ petition is disposed of with the aforesaid observations.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ

Pijush/

MUNNA SAHA
Digitally signed by MUNNA SAHA
Date: 2024.07.22 15:11:05 +05'30'