

HIGH COURT OF TRIPURA
AGARTALA

A.B. 9/2024

Bijoy Das

....Applicant(s)

Versus

The State of Tripura

....Respondent(s)

For Applicant(s)	:	Mr. S. Kar Bhowmik, Sr. Advocate Mr. E.L. Darlong, Advocate
For Respondent(s)	:	Mr. Raju Datta, P.P.

HON'BLE MR. JUSTICE ARINDAM LODH
Order

12/03/2024

Heard Mr. S. Kar Bhowmik, learned senior counsel assisted by Mr. E.L. Darlong, learned counsel appearing for the accused-applicant. Also heard Mr. Raju Datta, learned P.P. appearing for the respondent-State.

By means of filing the present application, the applicant has prayed for releasing him on anticipatory bail under Section 438 of Cr.P.C since he is under serious apprehension that he will be arrested in connection with NCC PS case No.10 of 2024 registered under Sections 341/325/307/382B/506/34 of IPC and Section 3 of SC/ST(Prevention of Atrocities) Act, 1989.

One Smt. Anamika Tripura had lodged a complaint on 26.01.2024 to the Officer In-charge of the NCC PS, Agartala stating *inter alia* that on 26.01.2024 at around 9:30 to 9:45 p.m. while she was proceeding with her car bearing no.TR01BQ0457, it dashed with an E-Rickshaw due to fog. After the accident, one Kaushik Debnath and some other unknown persons came to the place and started beating her and her brother with timber, rod, etc. by calling tribal people in Bengali “Oi Tribal der mar, mar, sob sesh kortase ebong dada giri dekhatase ei sohore” etc. It was also stated in the ejahar that when they came to the place of occurrence before beating they also took away their gold ornaments, money bag, phone, etc. Inside her bag there was Rs.10,000/- and thereafter they fled away from the place of occurrence. It was further alleged that out of such assault they had registered an F.I.R. No.NCC PS case no.10 of 2024 under Sections 341/325/307/382B/506/34 of IPC and Section 3 of SC/ST(Prevention of

Atrocities) Act, 1989 against Sri Kaushik Debnath, Binoy Banik, Chayan and others.

In view of the said complaint, the investigating agency has been raiding the house of the applicant, Bijoy Das time and again with intention to arrest him, which forced him to file this application for granting anticipatory bail.

When the matter was taken on 01.03.2024, Mr. Datta, learned P.P. had raised a preliminary objection about the maintainability of the present application since according to him, the accused-applicant cannot file an application for granting anticipatory bail under Section 438 of Cr.P.C. in view of the bar mentioned in Section 18 of SC/ST(Prevention of Atrocities) Act, 1989.

Mr. Datta, learned P.P. had also referred to Section 3 of SC/ST(Prevention of Atrocities) Act, 1989 which provides for punishment for offences of atrocities under the said Act.

In reply to the submissions advanced by learned P.P., Mr. Kar Bhowmik, learned senior counsel has submitted that the present application is maintainable for the reason that the applicant, Bijoy Das is a member of SC community and the SC/ST(Prevention of Atrocities) Act, 1989 is not applicable to him.

Having gone through the provisions referred to by learned counsel appearing for the parties, this Court had passed a direction vide order dated 01.03.2024 requesting the learned P.P. to verify the fact from the concerned authority as to whether the applicant is a member of SC community or not.

Today learned P.P. at the very outset has produced the report prepared by Sub-Divisional Magistrate, Sadar, West Tripura and forwarded by Deputy Superintendent of Police, O/o the SP West, Agartala.

I have perused the report dated 04.03.2024 issued by the Sub-Divisional Magistrate, Sadar, West Tripura wherein it is confirmed that the applicant, Bijoy Das is a member of SC community. This report dated 04.03.2024 may be kept on record.

I have also perused Section 18 of the SC/ST(Prevention of Atrocities) Act, 1989. For the sake of convenience Section 18 of the Act is reproduced, which reads as under:

“18. Section 438 of the Code not to apply to persons committing an offence under the Act. – Nothing in Section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.”

Section 3 of the SC/ST(Prevention of Atrocities) Act, 1989 provides for ***punishments for offences of atrocities***, which reads as under:

“3. Punishments for offences of atrocities. – (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, -

(a) puts any inedible or obnoxious substance into the mouth of a member of a Scheduled Caste or a Scheduled Tribe or forces such member to drink or eat such inedible or obnoxious substance;

(r)intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s)abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;

Shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.”

On plain reading of the aforesaid provisions, it becomes clear that since the applicant belongs to SC community, the provisions mandatory to Section 18 and Section 3 of the SC/ST(Prevention of Atrocities) Act, 1989 shall not be applicable to the present applicant, Bijoy Das.

Mr. Datta, learned P.P. has not raised any other points to reject the prayers made by the applicant. Since none of the ingredients as embodied in Section 307 and Section 382B of the IPC is found against the applicant, I allow the instant application for granting anticipatory bail to the applicant and it is ordered that in the event of arrest the applicant, Bijoy Das shall be released on bail on furnishing a bond of Rs.25,000/- with one surety of the like amount, to the satisfaction of the Investigating Officer of the concerned Police Station.

In view of the above, the instant application for granting anticipatory bail stands allowed and disposed.

JUDGE

Snigdha