

**HIGH COURT OF TRIPURA
AGARTALA
B.A. No.62 of 2024**

The State of Tripura.

-----Applicant(s)

Versus

Sri Shyam Babu Roy.

-----Respondent(s)

For Applicant(s) : Mr. Raju Datta, P.P,
Mr. Rajib Saha, Addl. P.P.

For Respondent(s) : Mr. H. K. Bhowmik, Adv,
Mr. Amit Saha, Adv.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

02/12/2024

This application under Section 483(3) read with Section 528 of BNSS, 2023 is filed challenging the order dated 20.09.2024 in connection with B.A. No.184 of 2024 delivered by Learned Addl. Sessions Judge, Court No.2, West Tripura, Agartala in connection with NCC P.S. Case No.061 of 2024 under Section 126(2)/109/61(2)/307/3(5) of BNS, 2023 and Section 25(1A)/27 of Arms Act.

Heard Learned P.P., Mr. Raju Datta representing the State-respondent and also heard Learned Counsel, Mr. H. Bhowmik representing the respondent-accused.

Taking part in the hearing, Learned P.P., representing the State-respondent has drawn the attention of the Court that in the FIR there was clear allegation showing involvement of the respondent-accused with the alleged crime. But the Learned Court below without considering the materials on record and considering the gravity of the offence was pleased to allow bail to the respondent-accused for which the State has

preferred this application for cancellation of bail granted to the respondent-accused.

Learned P.P. further submitted that the other accused persons are still absconding, so, for the purpose of apprehension of the rest accused persons, the custodial detention of the accused is required. So, Learned P.P. urged for cancellation of the bail granted to the respondent-accused.

On the other hand, Learned Counsel, Mr. H. K. Bhowmik for the respondent accused drawn the attention of the Court that the initial FIR on the basis of which this case was registered and also the order dated 20.09.2024 of the Learned Court below by which the bail was granted to the respondent-accused. Learned Counsel further submitted that the respondent-accused was in custody for a period of 57 days and also from the contents of the order of the Learned Court below, it appears that the prosecution before the Learned Court below failed to produce any cogent materials to disallow his bail application and furthermore, after release on bail, the respondent-accused is appearing before the I.O. as per order of the Court and at this stage, there is no prayer from the side of the prosecution that he has violated the conditions of bail granted to him. So, Learned Counsel submitted that there is no merit in the application filed and prayed for rejection of the same.

I have also perused the Case Diary produced by Learned P.P. and also perused the FIR on the basis of which this case was registered. From the contents of the FIR, it appears that to the alleged P.O. this present respondent-accused was

not present. The allegation of the prosecution was that on the alleged day another accused, Sachin Kumar Ray brought his father's pistol from his house and in front of everyone he stated that he would kill the informant and attempted to kill him and fired rounds and also he shouted that his father had given him pistol with a direction to kill the victim. Thus, it appears that simply on the basis of alleged statement of the co-accused, this present accused was taken into custody and was detained for a considerable period in custody.

From the record, it appears that after considering the materials on record, Learned Court below by the aforesaid order granted bail to the respondent-accused with certain conditions. At this stage, there is no evidence from the side of the prosecution that he has violated the terms and conditions of the bail granted to him or there is no evidence on record at this stage that he is interfering with the investigation of the case or threatening the witnesses of the prosecution, or he has violated the Court's order.

Situated thus, I find no merit in the application filed by the prosecution for cancellation of bail granted to the respondent-accused. Hence, the petition for cancellation of bail granted to the respondent-accused filed by the prosecution under Section 483(3) read with Section 528 of BNSS, 2023 stands rejected being devoid of merit. The accused shall abide by the terms and conditions of the order dated 20.09.2024 laid by the Learned Addl. Sessions Judge, Court No.2, Agartala, West Tripura in B.A. No.184 of 2024. The I.O. be asked to expedite investigation and to submit report.

Send down the LCR along with a copy of this order to the Learned Jurisdictional Magistrate. Also send back the Case Diary to I.O. through Learned P.P. along with a copy of this order.

With this observation, this bail application stands disposed of.

JUDGE



**MOUMITA
DATTA**

Purnita

Digitally signed by MOUMITA DATTA
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