

**HIGH COURT OF TRIPURA
AGARTALA**

BA No.71 of 2024

Md. Sabbir Ahammed		---	Appellant(s)
	Versus		
The State of Tripura		----	Respondent(s)

For Appellant(s)	:	Mr. P. K. Biswas, Sr. Adv. Mr. P. Majumder, Adv. Mr. R. Nath, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P. Mr. S. Ghosh, Addl. P.P.

HON’BLE MR. JUSTICE BISWAJIT PALIT

Order

18/11/2024

This bail application under Section 483 of BNSS is filed by the accused in custody namely Md. Sabbir Ahammed who is lodging in jail in connection with Sonamura PS Case No.94 of 2024 under Section 140/117(2)/3(5) of the BNS, 2023 and 27(2) of the Arms Act.

Heard Learned Senior Counsel Mr. P. K. Biswas assisted by Mr. P. Majumder, Learned counsel and Mr. R. Nath, Learned counsel appearing for the accused petitioner and also heard Mr. Raju Datta, Learned P.P. along with Mr. S. Ghosh, Learned Addl. P.P. appearing on behalf of the State-respondent.

In pursuance of the earlier order dated 06.11.2024 Learned P.P. has produced the CD as called for and also received the LCR. Taking part in the hearing Learned Senior Counsel Mr. P.K. Biswas appearing on behalf of the accused petitioner first of all drawn the attention of the court referring the FIR laid by the informant and submitted that this present accused has been falsely implicated in this case and in course of investigation he was called for by the I.O. to the police station when he was arrested by the I.O. and he had no intention to abscond and furthermore Learned Senior

Counsel submitted that there is as alleged in the FIR till today there is no evidence that this present accused in custody along with others have robbed money from the possession of the informant and there is also no evidence on record regarding application of Section 27 of the Arms Act against the accused in custody and furthermore Learned Senior Counsel submitted that the accused is lodging in custody on and from 05.10.2024 and till today nothing could be achieved by I.O. showing implication of the accused in custody with the alleged crime, which shows there is no prima facie case against the accused-petitioner. So considering the nature of allegation Learned Senior Counsel urged for releasing the accused on bail in any condition. Learned Senior Counsel also referred one citation of the Hon'ble Supreme Court of India in **P. Chidambaram vs. Central Bureau of Investigation** reported in **AIR 2019 SC 5272** wherein in para No.22 the Hon'ble Apex Court observed as under:

"22. The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:- (i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations (vide Prahlad Singh Bhati v. NCT, Delhi and another (2001) 4 SCC 280). There is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be considered on the facts and circumstances of each case and on its own merits. The discretion of the court has to be exercised judiciously and not in an arbitrary manner. At this stage itself, it is necessary for us to indicate that we are unable to accept the contention of the learned Solicitor General that "flight risk" of economic offenders should be looked at as a national phenomenon and be dealt with in that manner merely because certain other offenders have flown out of the country. The same cannot, in our view, be put in a straight-jacket formula so as to deny bail to the one who is before the Court, due to the conduct of other offenders, if the person under consideration is otherwise entitled to bail on the merits of his own case. Hence, in our view, such consideration including as to "flight risk" is to be made on individual basis being uninfluenced by the unconnected cases, more so, when the personal liberty is involved."

Referring the same Learned Senior Counsel submitted that in view of the principle of law laid down by the Hon'ble Apex Court this accused in custody may be released on bail in any condition.

On the other hand, Learned P.P. appearing on behalf of the State-respondent producing the CD drawn the attention of this court that there is material against accused showing his implication with the alleged offence and urged for dismissal of the bail application.

Considered.

Here in the given case this present prosecution was set into motion on the basis of an FIR laid by one Abdul Mannan to OC Sonamura Police Station alleging inter alia that on 04.10.2024 in the morning at about 7.30 a.m. the informant riding his by-cycle went to Dhaliayi and at the time of returning back from Dhaliayi on Sonamura-Agartala road in front of Satyanarayan Hotel the custody accused along with others appeared therein along with a Bolero vehicle bearing No.TR03C2364 and detained him when the accused Sabbir Ahammed and Faisal Sapan intended to kill her by showing a pistol and asked him to pay Rs.10,00,000/- failing which they would kill him. As the informant refused to pay the said money the accused persons started assaulting him indiscriminately. The informant raised hue and cry when accused No.1 and 4 opened fire from the pistol and forcefully dragged him inside the Bolero vehicle. From the P.O. first of all they proceeded towards Durlavnarayan and after arrival again therein they returned back and proceeded towards Dhanpur NEEPCO and entered inside a rubber plantation towards East. That time the accused person contacted with one Sahid Ulla, the accused No.5

and as per his advice they committed the offence. After that the accused persons forcefully snatched away of Rs.3,00,000/- from his possession. Further according to informant due to physical assault by the accused persons he sustained injury to his eyes and also sustained pain injury to his body. On hearing the information as soon as the family members of the informant reported the matter to the Sonamura P.S. that time the accused persons left him near Sonamura Town hall and absconded and thereafter the informant took treatment at Sonamura Hospital and accordingly laid the FIR.

On the basis of that FIR the said case was registered by O.C. Sonamura P.S. In course of investigation the I.O. of this case has forwarded and produced the accused before the court of the Learned CJM, Sonamura Sepahijala District on 05.10.2024 and since then he is lodging in jail and in course of investigation the I.O. has come across different stages of investigation and recorded the statement of some of the witnesses in support of the prosecution case.

However, on the perusal of the case diary this court does not find any material showing snatching of money amounting to Rs.3,00,000/- (three lakhs) as alleged by the informant in the FIR by the accused and also regarding using of fire arms for application of Section-27(2) of Arms Act up to this stage of investigation against the accused. So, considering the period of detention of the accused in custody in my considered view this is a fit case where the accused may be considered for granting bail by this court. Accordingly, the accused Sabbir Ahammed may be released on bail of his execution of bail bond of Rs.25,000/- (twenty five) thousand with two sureties of like amount each

subject to the satisfaction of Learned court below with condition that in the event of release on bail the accused shall appear before I.O. of this case once in a week till completion of investigation and the accused shall not leave the jurisdiction of the court without permission of the Learned court below and the accused also shall not make any attempt to temper the evidence on record of the prosecution. If during bail the accused violates the condition of bail in that case the I.O. shall be at liberty to submit prayer for cancellation of bail to the Learned court below.

With these observation this bail application stands disposed of.

A copy of this order be supplied to Learned Senior Counsel appearing for the accused in custody for information and compliance.

A copy of this order be sent to Learned CJM, Sepahijala District, Sonamura in the course of the day and also send down the LCR.

A copy of this order also be sent to the I.O. along with CD through Learned P.P. for information and compliance.

JUDGE

**MOUMITA
DATTA**

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