

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.701 of 2024

Smt. Shipra Chakraborty, W/O Sri Sasthi Chakraborty, R/O- Office Tilla,
Bishalgarh, P.O- Bishalgarh, P.S- Bishalgarh, District- Sepahijala, PIN-799102
.....Petitioner(s);

Versus

1. The State of Tripura (To be represented by the Secretary, Home Department, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S- New Capital Complex, Agartala, West Tripura, PIN- 799010
2. The Inspector General of Prison, Govt. of Tripura, Near Old Central Jail, Agartala, West Tripura, Pin-799001
3. The Deputy Secretary (Home), Jail Department, Govt. of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.S- New Capital Complex, Agartala, West Tripura, PIN- 799010
4. The Superintendent, Kanchanpur Sub-Jail, Govt. of Tripura, District- North Tripura.
5. The DM & Collector, Govt. of Tripura, North Tripura District, O/o the DM & Collector, North Tripura

.....Respondent(s).

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

For Respondent(s) : Mr. Kohinoor N. Bhattacharyya, G.A.

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

Order

19/11/2024

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Kawsik Nath, learned counsel for the petitioner and Mr. Kohinoor N. Bhattacharyya, learned Government Advocate for the respondents-State.

2. Petitioner is the wife of the convict namely Sasthi Chakraborty, Son of Late Makhan Chakraborty, who has suffered conviction under Section 302 of the Indian Penal Code read with Section 149 of the IPC and Section 3 of the Explosive Substances Act, 1908 read with Section 149 of the IPC vide judgment of conviction and sentence dated 29.04.2016 and 30.04.2016

respectively passed by the learned Additional Sessions Judge, Court No.2, West Tripura, Agartala in Sessions Trial No.17(ST/A) of 1986. The Criminal Appeal (J) No.35/2016 preferred by Sri Sasthi Chakraborty and other convicts have been dismissed by Coordinate Bench of this Court vide judgment and order dated 01.11.2019 [Annexure-1]. The convict has been imposed with a sentence of rigorous imprisonment for life and fine of Rs.20,000/- and a default sentence under Section 302 of the IPC read with Section 149 thereof. He has also been sentenced to suffer RI for 7 years with fine of Rs.10,000/- and a default sentence under Section 3 of the Explosive Substances Act, 1908 read with Section 149 of the IPC.

3. Mr. P. Roy Barman, learned senior counsel for the petitioner, submits that husband of the petitioner is in custody since the date of his conviction i.e. 29.04.2016. Therefore, he has completed 7 years of sentence under Section 3 of the Explosive Substances Act, 1908; but he is suffering the life sentence under Section 302 of the IPC. It is submitted that the marriage ceremony of the only daughter of the petitioner and the convict Sasthi Chakraborty is to be performed on 27.11.2024. He had prayed for parole; the application of which was forwarded by the Jail Superintendent vide letter dated 04.09.2024 with an observation that he is not eligible to grant parole as he is a convict of Explosive Substances Act. It is further submitted that the convict has not been released for a single day since his conviction and has undergone sentence for almost a period of eight years and seven months by now. Learned senior counsel for the petitioner has also drawn the attention of this Court to Section 31A(1) under Part VI A of the Prisoners (Tripura Amendment) Act, 1979 and also the

Prisoners (Tripura Second Amendment) Act, 2019 whereunder certain conditions have further been added under Section 31A of the original Act. He submits that as per the amended Sub-Section (4) of Section 31A, those convicted under TADA, POTA, UAPA and other enumerated Acts including Explosive Substances Act, 1908 shall not be entitled for parole. However it is submitted that since the convict has already undergone the sentence under Explosive Substances Act, this rider may not operate against him. Otherwise, there are no adverse remarks against his good conduct during the period of his incarceration. Since no decision was taken by the competent authority i.e. the Home Secretary of the State upon the representation of the convict and the reference made by the Superintendent of Kanchanpur Sub-Jail on 04.09.2024, petitioner has been compelled to move this Court in writ jurisdiction. Learned senior counsel for the petitioner submits that the respondents authority in particular the Home Secretary, Government of Tripura may be directed to take a decision on the application of the convict and release him on parole for a period of 30 days in accordance with law and the Prisoners (Tripura Amendment) Act, 1979 as amended.

4. Mr. Kohinoor N. Bhattacharyya, learned Government Advocate for the respondents-State, submits that the matter has been taken up for the first time. Therefore, instructions are awaited. However in view of the circumstances explained by learned senior counsel for the petitioner that the daughter of the petitioner and the convict is going to be married on 27.11.2024, this Court may if deem fit direct the competent authority/Secretary, Home Department to take a decision on the application of the petitioner as forwarded

by the Jail Superintendent, Kanchanpur Sub-Jail vide Annexure-4 in accordance with law and the Prisoners (Tripura Amendment) Act, 1979 as amended within this time.

5. We have taken note of the submission of learned counsel for the parties and referred to the relevant material pleadings placed from record. It appears that the request for parole was made on behalf of the convict on 30.08.2024 which has been forwarded with certain observations by the Superintendent of Jail, Kanchanpur Sub-Jail to Inspector General of Prisons on 04.09.2024 itself, but no decision has been taken. The forwarding letter however also indicates that the convict is not eligible to grant parole as he is a convict of Explosive Substances Act. On the other hand, learned senior counsel for the petitioner has pointed out that his sentence under Explosive Substances Act has been completed after 7 years of incarceration and he is now undergoing sentence only under Section 302 of the IPC. Since the marriage ceremony of the daughter of the petitioner and the convict is going to be solemnized on 27.11.2024 and no decision has been taken on the representation of the convict by the competent authority, we deem it proper to dispose of the writ petition without commenting on the merits of the request made by the convict for the competent authority to take a decision on the question of grant of parole to the convict Sasthi Chakraborty son of Late Makhan Chakraborty suffering conviction in connection with Sessions Trial No.17(ST/A) of 1986 and stated to be in jail since 29.04.2016 upon his conviction in accordance with law and the provisions of Prisoners (Tripura Amendment) Act, 1979 as amended latest by 25th November, 2024.

6. Writ petition is disposed of accordingly. Let a copy of the order be handed over to the learned Government Advocate and learned counsel for the petitioner today.

(S.D. PURKAYASTHA), J **(APARESH KUMAR SINGH), CJ**



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