

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. No.77 of 2024

Sri Gouranga Nath for and on behalf of Sri Gopal Nath

..... Petitioner(s)

V e r s u s

The State of Tripura

..... Respondent(s)

For Petitioner (s)	:	Mr. S. Das, Adv.
For Respondent(s)	:	Mr. R. Datta, PP

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

Order

28.11.2024

The engaged learned counsel of the petitioner is not present today.

However, Mr. S. Das, learned Legal Aid Counsel appearing for the petitioner and Mr. R. Datta, learned PP along with by Mr. R. Saha, learned Addl. PP for the State, are present.

This petition was filed by the petitioner on behalf of accused Gopal Nath under Section 483 of the BNSS praying for bail of the above said accused in connection with Kadamtala P.S. Case No.49 of 2024 under Sections 22(C)/25/29 of the NDPS Act.

As it appears, the learned Special Judge, North Tripura, Dharmanagar earlier rejected the prayer for bail on 28.08.2024 and thereafter, the present bail petition has been filed.

Yesterday when the case was taken up, the learned engaged counsel of the petitioner was also not present for which learned counsel, Mr. Samar Das was appointed as Legal Aid Counsel for the accused.

However, during hearing learned legal aid counsel, Mr. Das under instruction from the custody accused submits that already the bail has been granted for an interim period by the leaned Special Judge, North Tripura, Dharmanagar 3-4 days ago on the ground of death of the father of the accused so that he can perform the post death rituals of his father. Mr. Das, therefore, submits that the present bail application has become infructuous and therefore, the same may be rejected.

On the other hand, Mr. Datta, learned PP with all emphasis submits that it was the duty of the accused person or the petitioner to inform this court about submission of separate bail application before the learned Special Judge and normally, when the matter is under the consideration of the higher forum, the courts below does not interfere, rather wait for the decision of the higher court.

Mr. Datta, learned PP also refers a notification dated 09.02.2024 issued by this High Court in terms of the direction of the Hon'ble Supreme Court of India passed vide order dated 19.01.2024 in Criminal Appeal No.303/2024, wherein it was directed that details and copies of order(s) passed in the earlier bail application(s) filed by the petitioner which have been already decided and details of any bail application (s) filed by the petitioner, which is pending either in any court, below the court in question or the higher court should be mandatorily mentioned in the application. But here the petitioner has suppressed the fact of filing of bail application before the learned Special Judge keeping the instant bail application pending. Therefore, heavy cost may be imposed.

It appears from the records that when the bail application was taken up for hearing on 22.11.2024, learned counsel of the petitioner insisted to fix the same on 25.11.2024 and submitted that if the Bench is not available, he would mention the bail application before any other appropriate Bench as the matter was urgent in nature. But ultimately, there is no reflection that anything was mentioned from the side of the petitioner for hearing on 25.11.2024 when this Bench was not available. Again matter was taken up on 27.11.2024 and at that time also, none was present for the petitioner. Even today also there is no representation of the said accused before this court except the legal aid counsel.

As it appears without informing this court anything, the accused has approached the learned Special Judge, North Tripura, Dharmanagar for granting bail despite the fact that the matter was under seisin of this court. It is not clear before this court as to whether the learned Special Judge had the information about the pendency of the bail application before this court or not but, it was no doubt the duty of the accused or the petitioner to inform this court about filing of the said bail application before the learned Special Judge. Such conduct on the part of the petitioner and the accused is highly deprecated.

All the Special Judges are, therefore, directed to mandatorily examine while dealing with any such bail application as to whether the parties have complied with the notification dated 09.02.2024 issued by this High Court and in case there is any suppression of material facts by the accused or the petitioner seeking bail or there is non-compliance of said notification, necessary order may be passed by the concerned court against the accused person or the petitioner in accordance with law. Moreover, when the matter of consideration of bail application is pending before High Court, the Court(s) below should wait for decision of the High Court before passing any order on such bail application.

As already bail has been granted, the legal aid counsel, Mr. Das did not press the instant bail application.

The bail application is accordingly rejected being not pressed.

The case diary is returned to PP.

The order be circulated to all the Special Judges.

JUDGE



सत्यमेव जयते

SUJAY GHOSH Digitally signed by SUJAY
GHOSH
Date: 2024.11.29 12:26:53
+05'30'

Sujay