

**HIGH COURT OF TRIPURA
AGARTALA
BA No.37 of 2025**

The State of Tripura,
Represented by the Secretary to the
Government of Tripura, Home Department,
Agartala.

---Applicant

-Vs-

Sri Saikat Talapatra,
S/o Late Ranjit Talapatra
Resident of AD Nagar Road No.6,
P.O. & P.S. – A.D Nagar, District- West Tripura
(Under custody at Kendriya Sansodhanagarh, Bishalgarh)

---Respondent

For Applicant(s)	:	Mr. Raju Datta, P.P.
For Respondent(s)	:	None.

HON'BLE MR. JUSTICE BISWAJIT PALIT

Order

02/07/2025

Heard Learned P.P., Mr. Raju Datta appearing on behalf of the State-applicant.

We have already received the record from the Learned Trial Court. But I today also no step has been taken by the private respondent-accused inspite of service of notice.

At the time of hearing, Learned P.P. appearing on behalf of the State-applicant drawn the attention of the Court the contents of the FIR and referring the same, Learned P.P. submitted that on the basis of FIR Killa P.S. Case No.027 of 2023 under Section 153A/153B/504/505/506/509 of IPC read with Section 67 of IT Act and also under Section 3(1)(r)/3(1)(s)/3(1)(u)/3(2)(va) of SC and ST (Prevention of Atrocities) Act, 1989 was registered against the respondent-accused and the I/O after completion of

investigation laid chargesheet against the respondent-accused before the Court.

Learned P.P. thereafter submitted that the I/O in the chargesheet prayed by holding custody trial of the said accused but the Learned Trial Court below by order dated 02.05.2025 in connection with Case No. Special 01 of 2025 granted bail to the said accused which was violative of the provision of Section 15A of SC and ST (Prevention of Atrocities) Act, 1989 specifically the sub-sections 3 and 5 of the said Act. For the sake of convenience, I would like to refer herein below the relevant provisions of sub-section 3 and 5 of Section 15 A of the aforesaid Act which are as follows:-

"15A. Rights of victims and witnesses. –

(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing."

Thereafter, Learned P.P. further drawn the attention of the Court referring one citation of the Hon'ble Supreme Court of India reported in **2021 SCC OnLine SC 1010** in **Hariram Bhambhi Vs. Satyanarayan and Another** wherein in Para Nos.6, 13, 14 and 17 Hon'ble the Apex Court observed as under:-

"6. The appellant moved the High Court under Section 439(2) of CrPC for cancellation of bail [S.B. Criminal Bail Cancellation Application No.21/2020]. In the meantime, another Single Judge of the High Court, by an order dated 29 January 2021 rejected the application for bail filed by three co-accused - Kalu Ram, Kishan Lal and Chaman Lal. The application for cancellation of bail before the High Court was moved principally on the ground that no notice was issued to the appellant under sub-section (3) of Section 15A of the SC/ST Act, resultingly no opportunity to be heard was provided under sub-section (5) of Section 15A. The Single Judge who had admitted the first respondent to bail on 7th November 2019 rejected the application on the ground that since the appellant was being heard in the application for cancelling bail, the requirements of sub-sections

(3) and (5) of Section 15A were complied with. The High Court observed:

"So far as compliance of Section 15A(3)(5) of SC/ST is concerned, this Court today heard counsel for the complainant-petitioner again on merits, therefore, requirement of issuing notice to the complainant-petitioner (victim) as provided under Section 15A(3)(5) of the SC/ST Act is being complied with.

The order dated 07.11.2019 was passed by this Court after considering the statement of PW-2, Smt. Aaram Devi, wife of the deceased, therefore, I see no reason for recalling of the order dated 07.11.2019. As such, this criminal miscellaneous bail cancellation application is hereby dismissed."

13. Section 15A of the SC/ST Act contains important provisions that safeguard the rights of the victims of caste-based atrocities and witnesses. Sub-sections (3) and (5) of Section 15A specifically make the victim or their dependent an active stakeholder in the criminal proceedings. These provisions enable a member of the marginalized caste to effectively pursue a case and counteract the effects of defective investigations. Sub-sections (1) to (5) of Section 15A are extracted below:

"15A(1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.

(2) A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victim's age or gender or educational disadvantage or poverty.

(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

(4) A victim or his dependent shall have the right to apply to the Special Court or the Exclusive Special Court, as the case may be, to summon parties for production of any documents or material, witnesses or examine the persons present.

(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing."

(emphasis added)

14. Sub-section (3) of Section 15A confers a statutory right on the victim or their dependents to reasonable, accurate, and timely notice of any court proceeding including a bail proceeding. In addition, sub-section (3) requires a Special Public Prosecutor or the State Government to inform the victim about any proceeding under the Act. Sub-section (3) confers a right to a prior notice, this being evident from the use of the expression "reasonable, accurate, and timely notice of any court proceeding including any bail proceeding". Sub-section (5) provides for a right to be heard to the victim or to a dependent. The expression "dependent" is defined in Section 2(bb) thus:

"2(bb) "dependent" means the spouse, children, parents, brother and sister of the victim, who are dependent wholly or mainly on such victim for his support and maintenance;"

17. The Gujarat High Court in Hemal Ashwin Jain v. Union of India, R/Special Civil Application No.6369 of 2020 (Gujarat High Court), available at https://www.livelaw.in/pdf_upload/pdf_upload-380514.pdf (last accessed on 27 October 2021) observed that:

"37. The victims, even today, have no semblance of rights at the investigation stage and a feeble position at the trial stage of a criminal prosecution.

.....

53. We are also not impressed by the argument of Mr. Popat that Section 15A(3) of the Amendment Act should be construed as directory and not mandatory. As is evident from a plain reading of the section quoted above, the victim must be served with notice of the bail application and must be provided an opportunity to be heard and advance argument. When a statute specifically provides a right to the victim/dependent to be heard at any proceedings in respect of bail, and if the court fails to provide such opportunity, then there is an inherent failure of justice. This procedure, in our opinion, cannot be bypassed. The non-compliance of the provision of Section 15A(3) of the Amendment Act would render an order null and void. If Section 15A(3) of the Amendment Act is to be construed as directory, then the very object and purpose with which such provision is enacted would get frustrated."

61. In such circumstances referred to above, we hold that Section 15A(3) of the Amendment Act is mandatory and not directory"

(emphasis supplied).

Learned P.P., thereafter submitted another citation of the Hon'ble Supreme Court of India reported in **(2024) 10 SCC 768** in ***Ajwar Vs. Waseem and Another*** wherein in Para Nos.26 and 27 Hon'ble the Apex Court observed as under:-

"26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer: Chaman Lal v. State of U.P., (2004) 7 SCC 525; Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528; Masroor v. State of U.P., (2009) 14 SCC 286, Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, Neeru Yadav v. State of U.P.(2014) 16 SCC 508; Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129; Mahipal v. Rajesh Kumar, (2020) 2 SCC 118]

27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be

cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order. In *P v. State of M.P.*, (2022) 15 SCC 211 decided by a three-Judge Bench of this Court [authored by one of us (Hima Kohli, J.)] has spelt out the considerations that must weigh with the Court for interfering in an order granting bail to an accused under Section 439(1) CrPC in the following words: (SCC p. 224, para 24)

"24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [*Dolat Ram v. State of Haryana*, (1995) 1 SCC 349]. To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court."

Referring those citations, Learned P.P. submitted that in the instant case, Learned Special Judge at the time of considering bail application did not follow the provisions of sub-sections 3 and 5 of Section 15A of the Act and also in view of the aforesaid citations of law of the Hon'ble Apex Court of India, granted bail to the respondent-accused which needs to be interfered with and be set aside.

Considered.

In this case, the prosecution was set into motion on the basis of an FIR laid by the informant Smt. Ati Jamatia on 14.11.2023 to O/C, Killa Police Station which are mentioned herein below:-

To
The Officer in Charge
Killa Police Station
Gomati District

Subject:- Complaint against Saikat Talapatra for registration of criminal case under appropriate penal section of IPC, IT Act & SC/ST (Prevention of Atrocities) Act.

Sir,

I am deeply pained to bring to your knowledge about a outrageous comments made by one Saikat Talapatra, S/o Lt Ranjit Talapatra, of Road No-06, A.D Nagar, PO- AD Nagar, PS- A.D. Nagar, West Tripura through social media on his Facebook

page "Independent" and YouTube Page "News Independent Tripura". I am a proud citizen of this country and also a member of women wing of Tipra Motha party known as Tipra Women Federation (TWF). On 15.06.2023, Saikat Talapatra uploaded video on his Facebook page named Independent whose URL is <https://www.facebook.com/watch?v=tdTGwsOxPIQ> which was titled "Chinese Aunty Bhoy Payeni Independent. In the aforementioned video I can be seen with my other members of TWF wherein we have been referred as Chinese Aunty which is deeply insulting and humiliating to us and our entire tribal community. In the same video, he also uploaded a video of our agitation in which a large number of tribal community. In the same video, he also uploaded a video of our agitation in which a large number of tribal men and women can be seen. He has also used the words "Matal", "Junglee" and "Ugrapanthi" while addressing us and while referring to our entire tribal community people. We are extremely humiliated, and insulted by such racial attack on us and our entire ST community of Tripura. Such provocative statements/video has outraged the tribal sentiments throughout the State. As they have shown the video in a public platform calling us Chinese Aunties besides referring to us by other derogatory and demeaning words, not only me but my entire family and tribal society have been affected and insulted by such racial slurs. After the video went viral, about 107 thousand viewers on Facebook and about 14 thousand viewers on YouTube have viewed his post already and this video has caused huge resentment and grudge among tribal people and has created an environment of ethnic tension and misunderstanding between tribal and non tribal population of the State.

I could not lodge complaint against him earlier as I was fearing that, if any complaint is lodged against him, he would publish further derogatory and insulting post against me. Now, since he has been arrested by the police, I could muster courage to lodge complaint with request to take stringent legal action against him.

Thus I humbly pray to take appropriate legal action under the provisions of IPC, IT Act and SC/ST (Prevention of Atrocities) Act against Mr. Saikat Talapatra as per law.

Encl:-

1) One pen drive containing the aforementioned video.

Yours' Sincerely
Sd/-

Smt. Ati Jamatia(50)
W/o Shri Bikan Jamatia
Of Jalema, P.S. Killa,
Gomati Tripura.

On the basis of that, the aforesaid Killa P.S. case was registered and the I/O after completion of investigation laid chargesheet against the respondent-accused. The accused was arrested on 18.01.2025 in this case and thereafter by order dated 02.05.2025, he was granted bail by the Court of Learned Special

Judge, Court No.2, Gomati Judicial District, Udaipur. I have perused the said order. It appears that Learned Court below came to the observation that since the investigation was completed and I/O filed chargesheet and considering the period of imprisonment of this case, he has considered to grant bail to the respondent-accused in connection with this case.

Probably at the time of hearing, Learned Special P.P. failed draw the attention of the Court referring the aforesaid provisions of Section 15A of the SC and ST of (Prevention of Atrocities) Act, 1989 and Court also did not refer the said provisions of law at the time of passing of order. On bare perusal of the aforesaid provisions it is crystal clear that at the time of disposing of bail application, the victim or his dependent shall be entitled to be heard in any proceeding under the said act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceeding or arguments or to file written submission on conviction, acquittal or sentencing etc. Situated thus, it appears that without giving any opportunity to the victim or the informant, no order could have been passed by the Learned Special Judge. It is also on record that more 12/13 cases are pending against the said accused.

So, considering the nature of allegation and also the aforesaid provisions of law as referred by Learned P.P. and after going through the citations of the Hon'ble Supreme Court of India it appears that, the order was passed without application of proper mind and as such, the order dated 02.05.2025 passed by the Learned Special Judge, Court No.2, Gomati Judicial District,

Udaipur cannot be sustained in the eye of law. Accordingly, the same stands cancelled.

Learned Special Judge, Court No.2, Gomati Judicial District, Udaipur shall rehear the matter after giving opportunities to the victim of the case in the event of filing afresh bail application by the accused and shall pass appropriate order in accordance with the aforesaid provisions of law. As the respondent-accused remained absent at the time of hearing of this case, so Learned Trial Court shall also apprise the order of this Court during the next time of hearing of this case. It is not known to the Court as to whether the bail bond has been executed by the respondent-accused or not. However, if his bail bond is accepted by the Learned Trial Court, in that case, the same shall be cancelled and the accused shall be taken into custody again till disposal of fresh bail application, if filed by the accused and also after hearing the victim of this case for fair ends of justice.

With this observation, this present bail application stands disposed of.

Send down the record of the Learned Trial Court along with a copy of this order.

Send down the CD, if any, to the I/O through Learned P.P. along with a copy of this order.

Accordingly, the application filed by the prosecution under Section 439(3) of Cr.P.C. corresponding to Section 483(3) of BNSS, 2023 for cancellation of bail of the order dated 02.05.2025 in connection with Case No.Special 01 of 2025 stands allowed.

Further it appears that, the case is pending for recording evidence of the witnesses of the prosecution. So, Learned Trial Judge shall take all endeavour to dispose of the case giving top priority keeping it in mind that the accused is lodging in custody.

Pending application(s), if any, also stands disposed of.

JUDGE



Amrita

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