

Party Name : ASHIN DAYAL JAMATIA Vs THE STATE OF TRIPURA

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

This petition for anticipatory bail has been filed by the petitioner in respect of West Agartala Women Police Station Case No.7 under Section 448/376(1)/417 of the IPC.

The allegations made in the written complaint which is part of the FIR are that the complainant and the petitioner-accused have had physical relationship ever since the year 2012. According to the complainant, there was a love affair between them which started from the year 2011 and in 2012 this love affair blossomed into a physical relationship. No doubt, the complainant alleges that the physical relation was initially forced upon her, but this part cannot be accepted to be the gospel truth at this stage because she kept silent for 3 years and admittedly thereafter she consented to have sexual relations with the accused. It is also alleged that the accused promised to marry the complainant. It is further alleged that instead of marrying the accused he in fact married some other lady on 28th January, 2015.

At this stage, this Court is not going into the merits of this case. It is obviously a case of a love affair which has not materialized into marriage. Whether the accused is guilty of any of the offences which he is charged with is not for this Court to decide at this stage while granting bail. Even though the accused is charged with having committed rape, I am of the view that he is entitled to grant of anticipatory bail because even as per the complainant the sexual relations between the parties were consensual even though they may have been due to the promise of marriage. If that be so, it is mainly the evidence of the prosecutrix which shall have to be taken into consideration.

Therefore, it is ordered that in the event of his arrest, the petitioner shall be enlarged on bail on his furnishing a bail bond in the sum of Rs.50,000/- (rupees fifty thousand) with one surety in the like amount to the satisfaction of the Arresting Officer subject to the following terms and conditions:-

- (i) The petitioner is directed not to tamper with or in any manner influence the prosecution witnesses;
- (ii) The petitioner is further directed not to in any manner try to influence any of the prosecution witnesses;
- (iii) The petitioner is further directed not to cause any hindrance in the investigation;
- (iv) It is stated that the petitioner-accused is a senior Engineer employed in the Indian Oil Corporation and presently posted at Raipur. He is directed to report to the police station day after tomorrow (07.02.2015) at 11 a.m. and he shall be available to the police up to 15th February, 2015 so that the police can complete their interrogation of the accused. Thereafter, he shall be free to join his duty at Raipur, but he shall leave his email address, his cell phone number as well as his official address with the police and if he is called by the police for further investigation he shall have to come back to Agartala in response to such legal notice;
- (v) In case, the petitioner violates any of the conditions or tries to delay the trial the prosecution shall be at liberty to apply for cancellation of bail.

On the petitioner filing application for supply of the copy on payment of appropriate fees, the copy of the same shall be supplied to the petitioner by tomorrow.