

Party Name : TUKAN SAHA ON BEHALF OF ACCD. AMAR SAHA Vs THE STATE OF TRIPURA

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HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

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This is an application for grant of bail filed by the petitioner Sri Tukan Saha on behalf of the accused Amar Saha in connection with Ranir Bazar P.S. case No.2015 RNB 25 registered on 20.6.2015 against the accused under Sections 498(A)/302/34 of the Indian Penal Code (IPC).

The case against the petitioner is that he cruelly treated his wife and also committed her murder.

I have gone through the postmortem report which shows that the deceased victim died due to hanging. The hanging may be suicidal or homicidal. It is not for this Court to decide at the stage of grant of bail whether the hanging is suicidal or homicidal, but the offence with which the accused is charged is serious in nature.

In Tripura, the Code of Criminal Procedure (Cr.P.C.) has been amended and by the impugned amendment, after section 439 section 439A has been added which reads as follows:-

*"439A. Power to grant bail.—Notwithstanding anything contained in this Code, no person,—*

*(a) who being accused of or suspected of committing an offence under sections 120B, 121, 121A, 122, 123, 124A, 153A, 302, 303, 304, 307, 326, 333, 364, 365, 366, 366A, 366B, 367, 368, 376, 386, 387, 392, 394, 395, 396, 397, 399, 412, 436, 449 and 450 of the Indian Penal Code, (45 of 1860) and sections 25, 26, 27 and 28 of the Arms Act, 1959 (54 of 1959) and sections 3, 4, 5 and 6 of the Explosives Substances Act, 1908, (Act VI of 1908), is arrested or appears or is brought before a Court; or*

*(b) who, having any reason to believe that he may be arrested on an accusation of committing an offence as specified in clause (a) has applied to the High Court or Court of Session for a direction for his release on bail in the event of his arrest, shall be released on bail or, as the case may be, directed to be released on bail except on one or more of the following grounds, namely:-*

*(i) that the Court including the High Court or the Court of Session for reasons to be recorded in writing, is satisfied that there are reasonable grounds for believing that such person is not guilty of any offence specified in clause (a);*

*(ii) that such person is under the age of sixteen years or a woman or a sick or infirm person;*

*(iii) that the Court including the High Court or the Court of Session, for reasons to be recorded in writing, is satisfied that there are exceptional and sufficient grounds to release or direct the release of the accused on bail."*

At this stage, it cannot be said that no offence under Section 302 of IPC is made out against the accused. Therefore, he is not entitled to grant bail.

Accordingly, the bail application is rejected.

The petitioner may file petition for grant of bail after the viscera report is received. The police is directed to ensure that viscera reports are received within 30(thirty) days from today.