

Party Name : SHILPI BEGAM ON BEHALF OF ACCD. ABUL HOSEN ABBAS Vs THE STATE OF TRIPURA

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THE HONBLE MR. JUSTICE S.C.DAS

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Heard learned senior counsel, Mr. A.C. Bhowmik for the petitioner and learned P.P., Mr. A. Ghosh for the State respondent.

This is a petition under Section 439 of CrPC praying for bail of accused Abul Hosen Abbas in connection with Salema P.S. Case No.2015SLM022 registered under Sections 489(B), 489(C) read with Section 34 of 1PC. The accused person was arrested on 24.07.2015 and he is still in custody.

Prosecution case is that on 24.07.2015, Inspector Poushdhan Rupini of Salema Police Station received a telephonic information that two persons were moving with a motor bike bearing registration No. TR.02-B 5935 (pulsar) and were carrying fake Indian currency notes. The information was entered in the G.D. book of Salema P.S. by G.D entry No.779 dated 24.07.2015 and thereafter the informant, Inspector Poushdhan Rupini along with other police staff arrived at Latiabill and were waiting there and at that time they found that a motor bike with two persons on board approaching towards Santirbazar, and when they tried to stop the motor bike, those persons accelerated the speed of the motor bike and tried to flee away but the motor bike slipped and one of the riders i.e. Abul Hosen Abbas slipped from the motor bike and received some injuries. They searched both the riders and recovered Rs.92,000/- fake Indian currency notes of 500 denomination(total 184 notes) and seized the same in presence of the villagers. The two persons who were riding the motor bike were Abul Hosen Abbas and Bapi Miah and both of them were arrested. Inspector Poushdhan Rupini lodged the *suo motu* F.I.R under Sections 489(B) and 489(C) read with Section 34 of IPC and Sub-Inspector Sanjay Majumder was entrusted with the charge of the investigation.

It is the case of the petitioner that her husband accused Abul Hosen Abbas was tortured in the police custody and as a result he fell seriously ill and on 25.07.2015 he was shifted to Kamalpur Hospital, where from he was referred to G.B.P Hospital at Agartala and he was under treatment at G.B.P Hospital, Agartala till 20.08.2015.

This bail application was filed on 13.08.2015 and since it was alleged on behalf of the petitioner that the physical condition of the accused aggravated and that he may die at any time, medical reports were called from the hospital time to time and it was found that he was under proper treatment at G.B.P. Hospital and it was reported that most of the examinations were normal.

However, as it appears, he has been released from hospital on 20.08.2015. The bail prayer of the accused was rejected so long by this Court only to see whether custodial interrogation of the accused is necessary.

After going through the case diary, I find that on 07.08.2015 a prayer was made before SDJM, Kamalpur seeking police remand of the accused. It is not understood as to why no step has been taken for last six days, though the accused has already been released from hospital to take him to Kamalpur and interrogate him in police custody if it was necessary. Accused Bapi Miah was arrested on the date of lodging the F.I.R and he was taken to police custody and was interrogated by the Investigating Officer and I find nothing in his interrogation report furnished in the case diary.

The present accused and Bapi Miah were arrested together on the date of occurrence itself i.e 24.07.2015 but the present accused could not be interrogated by police since from the date of arrest he is in medical treatment either at Kamalpur or at Agartala but even after his release from hospital on 20.08.2015 as it appears Investigating Officer has failed to take him to police custody for interrogation.

The allegation that there was custodial torture does not seem to me justified since two accused were arrested at a time and in the F.I.R. itself it was mentioned that the accused Abul Hosen Abbas slipped from the motor bike when trying to flee away and at that time he received some injuries for which he was under treatment and that statement *prima facie* found to be logical and reasonable. The accused though was under treatment in the hospital was in custody from 24.07.2015. He has been released from the hospital on 20.08.2015, but no attempt has been taken to take him to custody for interrogation. In such circumstance I am inclined to grant bail to the accused Abul Hosen Abbas with certain conditions that the accused Abul Hosen Abbas be released on bail on his execution of a bail bond of Rs.50,000/- with two surety each of like amount and one surety must be a public servant on condition that he should appear before Investigating Officer twice a week or as and when required to facilitate his interrogation if necessary until/ otherwise directed by learned SDJM, Kamalpur.

He should not directly or indirectly interfere into the investigation and should not leave the jurisdiction of SDJM, Kamalpur without his previous permission until/otherwise directed by learned SDJM, Kamalpur.

Condition of the bail bond is to be relaxed to the satisfaction of learned SDJM, Kamalpur.

Case diary is returned to learned P.P., Mr. A. Ghosh.

Bail application accordingly stands disposed of.

Send the copy of this order to the Court of learned SDJM, Kamalpur.