

Party Name : FIRUJ MIAH 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 anticipatory bail filed under section 438 of Cr.P.C. in respect of East Agartala Women P.S. case No.92 of 2013 registered against the petitioner under section 302 of the Indian Penal Code (IPC).

The allegation against the petitioner is that he tried to rape the prosecutrix and she resisted. Later, he set her on fire. Whether this allegation is true or not is to be decided in course of trial. However, the allegation if correct reveals a very serious and heinous offence.

In this regard, it may be mentioned that on 30-10-2013 the learned Sessions Judge rejected the anticipatory bail application filed by the petitioner. Thereafter, on 26-0-2014 an application for grant of anticipatory bail filed by the petitioner before this Court was withdrawn. It would be pertinent to mention that both these bail petitions were filed by the petitioner himself and they were not filed on behalf of the petitioner.

It is, indeed, shocking that despite both the bail petitions having been rejected or withdrawn, the petitioner has not been arrested in such a serious offence till date. I fail to understand how the police can only state that the accused is absconding when he can engage and instruct counsel. On the last date, this Court had ordered that the petitioner should be present in person today. He is present in person.

It is, indeed, shocking that in a case of such a serious nature, the only explanation of the police is that the accused was absconding. There is no evidence worth the name to show that the accused was absconding because no material has been placed on record to show that he ever left Tripura during this period.

In my view, the petitioner cannot be granted anticipatory bail in a case of this nature because custodial investigation would be necessary in cases like this. Furthermore, I find that other than the fact that some time has elapsed, there are no changed circumstances after the earlier bail application was withdrawn.

In this view of the matter, the application for grant of anticipatory bail is rejected.

A copy of this order shall be sent to the Director General of Police who shall get an inquiry held as to what were the reasons why the bail petitioner was not arrested by the concerned officials.