

THE HIGH COURT OF TRIPURA
AGARTALA

A.B. 06 OF 2015
ALONG WITH
A.B. 07 OF 2015

IN A.B. 06 OF 2015:

Sri Binoy Das,
S/O. Sri Bir Charan Das,
Resident of Village-Gangagatipur,
P.O. Mohanpur,
P.S.-Sidhai, West Tripura.

..... **Accused-Petitioner.**

- V e r s u s -

The State of Tripura.

..... **Respondent.**

IN A.B. 07 OF 2015:

Sri Rajib Dasgupta,
S/O. Sri Ranjit Dasgupta,
Resident of Village-Narsingarh,
Vivekananda Palli,
P.S.-Airport, West Tripura.

..... **Accused-Petitioner.**

- V e r s u s -

The State of Tripura.

..... **Respondent.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioner(s) (in both the applications)	: Mr. P.K. Biswas, Sr. Advocate, Mr. P. Majumder, Advocate, Ms. C. Bhowmik, Advocate.
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For the respondent (in both the applications)	: Mr. A. Ghosh, Public Prosecutor.
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Date of hearing	: 20.01.2015.
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Date of judgment & order	: 04.02.2015.
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Whether fit for reporting	: NO.
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JUDGMENT & ORDER

These two anticipatory bail applications are being disposed of by a common judgment since they both arise out of the same FIR and the factual situation is virtually identical.

2. The prosecution story, briefly stated, is that one Sri Arnab Chakraborty who was working as cashier of the Rashtriya Madhyamik Siksha Abhijan (RMSA) has embezzled huge amounts of money running into crores of rupees after having entered into a criminal conspiracy and having been aided and abetted by various persons including the present two petitioners. According to the prosecution, as per the evidence collected till now Arnab Chakraborty has embezzled an amount of Rs.3.74 crores by forging 96 cheques. Charge-sheet in the case has been submitted in the Court of learned Chief Judicial Magistrate, West Tripura, Agartala. Initially, charge-sheet was only submitted against Arnab Chakraborty, his wife Smt. Sanghita Chakraborty and his mother Smt. Kajal Rani Chakraborty. However, thereafter charge-sheet has been prepared even in regard to the two petitioners Binoy Das and Rajib Dasgupta.

3. The allegation against Binoy Das is that he gave shelter to the accused Arnab Chakraborty as well as to Rajib Dasgupta during the period from 05-09-2014 onwards when Arnab was absconding after the filing/registration of the FIR along with Rajib Dasgupta. It is alleged that Binoy Das helped Arnab Chakraborty to

escape from Agartala by road via Silchar to Kolkata in a hired Scorpio. It is also alleged that he along with Arnab Chakraborty and Rajib Dasgupta went to Ayush Jewellers, Kolkata and purchased gold ornament worth Rs.2,98,500/- using debit card of Arnab Chakraborty but Rajib Dasgupta signed the name of Arnab Chakraborty. The prosecution relies upon some CCTV recordings etc. in this regard.

4. With regard to Rajib Dasgupta, the allegations are much more serious. It is alleged that in addition to the above, Arnab and Rajib are close friends and just prior to the recording of the FIR on 03-07-2014 they travelled together to Kolkata by air. It is alleged that both of them, i.e. Arnab and Rajib bought two Enfield Motor Cycles from the same showroom on the same date, i.e. 07-07-2014 and the cost of each motorcycle was Rs.1.5 lakhs. It is also alleged that immediately after the registration of the FIR, Rajib Dasgupta left Agartala on 06-09-2014 along with family members of Arnab Chakraborty. They went to Kolkata where they resided in a luxury hotel. The allegation against Rajib Dasgupta is also that he impersonated himself as Debabrata Pal and signed 10 forged cheques of RMSA and misappropriated Rs.33,54,000/- from government funds. According to the police, Rajib Dasgupta and Arnab Chakraborty used to go to Tripura State Co-operative Bank together to withdraw huge amounts of money and, therefore, test identification of Rajib Dasgupta has to be got done from the bank officials. Other material relied upon by the prosecution is the fact

that both Rajib Dasgupta and Arnab Chakraborty opened bank accounts on the same day in United Bank of India, Barjala where the misappropriated money was deposited. Huge transactions have been shown in the various bank accounts of Rajib Dasgupta.

5. Sri P.K. Biswas, learned Sr. Counsel appearing on behalf of petitioner Rajib Dasgupta, has relied upon the additional affidavit filed by Rajib Dasgupta wherein there are details of transactions of lakhs of rupees in the earlier years also and it is submitted that these transactions are natural transactions in the nature of his business. It is also alleged that Rajib Dasgupta used to act as an intermediary to get settlements made with the bank and, therefore, the loanees had given the amount to him which was to be deposited in the bank.

6. This Court cannot understand why the bank should have intermediaries to come to a one time settlement with the debtors. Furthermore, why would the debtor give the money to the intermediary if the same has to be actually deposited in bank?

7. At this stage, this Court is not going to the merits or demerits of the allegations made against the petitioners. As far as Binoy Das is concerned, the only allegation against him is that he helped the accused escape to Kolkata and was present when some ornaments were purchased. In my opinion, this material is insufficient at this stage to hold that Binoy Das could be guilty of

the offence of embezzlement and abetment thereof. Therefore, he is entitled to grant of anticipatory bail.

8. However, as far as Rajib Dasgupta is concerned, I am clearly of the view that his custodial interrogation is required so that the police can find out from him from where he has obtained huge amounts of cash and he can be confronted with the other witnesses. At this stage of grant of anticipatory bail, I am not at all inclined to grant bail to him.

9. Sri P.K. Biswas, learned Sr. Counsel, has relied upon the judgment of the Apex Court in ***Siddharam Satlingappa Mhetre v. State of Maharashtra and others, [AIR 2011 SC 312]***. In the said case, the Apex Court has held that grant or refusal of anticipatory bail depends on the facts and circumstances of each case and has laid down the following factors and parameters to be taken into consideration while dealing with such applications:-

“(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) The possibility of the applicant to flee from justice;

(iv) The possibility of the accused's likelihood to repeat similar or the other offences.

(v) *Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*

(vi) *Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.*

(vii) *The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over-implication in the cases is a matter of common knowledge and concern;*

(viii) *While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*

(ix) *The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*

(x) *Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”*

10. As far as the case against the petitioner Rajib Dasgupta is concerned, the allegations are very serious and according to the

prosecution, the accused has, in fact, forged some documents and has also misappropriated a huge amount. The offence is serious in nature and custodial interrogation would be required in the matter. This is not a case where it can be said with certainty that this is a case of no evidence. I have carefully gone through the police record. I am purposely not dealing with the evidence in detail because that may be deemed to be an expression on the merits of the case. However, there is sufficient material on record to show the *prima facie* involvement of Rajib Dasgupta and it cannot be said with certainty that he is innocent. His custodial interrogation is necessary and, therefore, the anticipatory bail application of Rajib Dasgupta is rejected.

11. As far as Binoy Das is concerned, 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.20,000/- (rupees twenty thousand) with one surety in the like amount to the satisfaction of the Arresting Officer subject to the following terms and conditions:-

(i) That, the petitioner shall appear before the Investigating Officer at 11.00 a.m. on Friday (06.02.2015). He shall also appear before the Investigating Officer on every subsequent date for which a written notice is served upon him;

(ii) The petitioner is further directed not to tamper with or in any manner influence the prosecution witnesses;

(iii) The petitioner is further directed not to in any manner try to influence any of the prosecution witnesses;

(iv) The petitioner is further directed not to cause any hindrance in the investigation;

(v) The petitioner shall not leave Tripura without permission of the appropriate Court;

(vi) 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.

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

13. Both the applications are disposed of in the aforesaid terms.

CHIEF JUSTICE