

Party Name : RINA DEBNATH ON BEHALF OF ACCD. GAUTAM DEBNATH & ANR. Vs THE STATE OF TRIPURA

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HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

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This petition for grant of bail has been filed by the petitioner Smt. Rina Debnath on behalf of accused Gautam Debnath and Jayanta Deb in connection with a case arising out of FIR No.142 of 2014 registered with East Agartala Police Station under sections 325/302/34 of the Indian Penal Code (IPC). After investigation is completed, charge-sheet has also been filed on 20-01-2015.

The prosecution story, briefly stated, is that the deceased Rukanta Chauhan was a friend of Sanku Saha and Kudu Acharjee. It is alleged that these two friends called the deceased from his house on the evening of 17-08-2014 and thereafter, all three persons went away. According to the prosecution, these three persons went to attend Manasa Puja function and there some of the other accused persons met them. They reached Maheshkhola Bazar and the deceased along with some other persons went to the house of Dwijendra Saha where they consumed drink. According to the prosecution, at about midnight Sanku Saha and the deceased Rukanta Chauhan left the house of Dwijendra Saha and left for the house but Mintu Das alias Sujit remained there. When they were coming towards Maheshkhola Bazar from the house of Dwijendra Saha, they met the accused Gautam Debnath, Jayanta Deb and others who were also coming back after attending the Manasa Puja function from the house of Raj Kumar Kuri. According to police, the accused persons without any rhyme or reason assaulted Rukanta Chauhan with fist blows and he was beaten so badly that he virtually became unconscious. They then raised false alarm that they had caught a thief, i.e. the deceased. Other people gathered at the spot. Again the deceased was beaten up and finally, by the time the police reached the spot, he had become unconscious and then he was taken to the hospital.

At this stage, this Court is not going into the merits of the allegations. However, the fact remains that the prosecution case itself is that the deceased was given fist blows and kick blows. The medical report indicates that he died as an injury received on the head. There were many people who attacked the deceased. It is not clear which of the accused persons, if any, gave him a blow on the head. There is no weapon of offence. Therefore, at this stage I am not convinced that a case under section 302 is made out. May be, after leading evidence, the prosecution may prove its case but it cannot be said with certainty that the accused are guilty of an offence punishable under section 302 of the IPC.

The accused are young boys. They have been behind bars for more than five months and investigation is complete. They are no longer required in the investigation of the case.

Therefore, I direct that the two accused persons namely Gautam Debnath and Jayanta Deb be released on bail on their furnishing bail bond in the sum of Rs.25,000/- (rupees twenty five thousand) each with one surety in the like amount to the satisfaction of the Chief Judicial Magistrate, West Tripura, Agartala undertaking therein:-

(i) That, the accused persons are directed not to tamper with or in any manner influence the prosecution witnesses;

(ii) That, the accused shall ensure that no threat directly or indirectly is given to any of the prosecution witnesses;

(iii) The accused are further directed not to cause any hindrance in the investigation;

(iv) The accused shall not leave Tripura without permission of the appropriate Court;

(v) The accused persons shall appear before the trial Court on each and every date of hearing. In case, they absent themselves on any date, then the trial Court shall cancel the bail and the accused shall be arrested. Thereafter, the said persons shall have to approach this Court for grant of bail;

(vi) In case, the accused persons violate any of the conditions or try to delay the trial, the prosecution shall be at liberty to apply for cancellation of bail.

With these observations, the bail application is disposed of.

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.