

Party Name : DULAL DHAR ON BEHALF OF ACCD. DURLAV DHAR @ RAJU @ SONAI Vs
THE STATE OF TRIPURA

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

This bail application has been filed by the father of the accused in respect of FIR Case No.93 of 2014 registered with the Melaghar Police Station under Sections 341, 354(B), 506 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012.

The prosecution case briefly stated is that the son of the petitioner who is the accused, aged about 21 years, on 15.11.2014 accosted the prosecutrix when she was on her way to school, obstructed her way, followed her to school, restrained her in the first floor of the school building and then outraged her modesty by trying to strip her dress and forcibly kissed her on the face.

The accused has been behind bars since 15.12.2014. He himself surrendered to the police. The investigation is complete. The charge-sheet has been filed and the case is fixed for prosecution evidence on 5th and 6th February, 2015. It is urged that now there is no chance of absconding of the accused, investigation is complete and he should be released on bail.

Even if all the averments made against the accused in the FIR are accepted to be correct, this is a case at best of outraging of her modesty and not a case of rape. It is also pointed out that at the time of framing of the charge, charge has been framed only under Section 8 of the Protection of Children from Sexual Offences Act and 506 I.P.C. The maximum punishment provided for an offence under Section 8 is 5(five) years but cannot be less than 3(three) years and in respect of 506 I.P.C the maximum punishment is 2(two) years. The Apex Court in a number of cases held that where the maximum sentence which can be imposed is 7(seven) years or less bail should be granted as a matter of course unless there are some very cogent reasons to reject an application for grant of bail.

Mr. R C Debnath, learned Addl.P.P., submits that the case is fixed for prosecution evidence on 5th and 6th February, 2015. The petitioner may not be released on bail otherwise he may try to influence the prosecution witnesses.

Keeping in view all the aforesaid facts and circumstances, I allow the petition and direct that whether the prosecutrix and the other witnesses are examined or not on 5th and 6th February, 2015 the accused **Durlav Dhar alias Raju alias Sonai** shall on the afternoon of 6th February, 2015 be entitled to be released on bail by the learned trial Court on furnishing a bail bond of **Rs.10,000/- (Rupees ten thousand)** with one surety of the like amount to the satisfaction of the learned trial Court subject to the following terms and conditions :

- (i) That, the accused person is 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 is 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 shall undertake to appear before the trial Court on each and every date and in case the accused person fails to appear before the trial Court then the trial Court shall cancel the bail and the accused shall be arrested. Thereafter, the said person shall have to approach this Court for grant of bail;
- (vi) In case, the accused violates any of the conditions or try to delay the trial, the prosecution shall be at liberty to apply for cancellation of bail.

The bail application is disposed of in the aforesaid terms.