

Party Name : BIROJA BEGUM ON BEHALF OF ACCD. ABU SAYED MIAH @ SAYED MIAH
Vs THE STATE OF TRIPURA

THE HONBLE MR JUSTICE U. B. SAHA

The instant bail application is filed by Smt. Biroja Begum, wife of the accused Abu Sayed Miah @ Sayed Miah under Section 439 of the Code of Criminal Procedure for granting bail to the custody accused person, namely, Abu Sayed Miah who was arrested on 22.02.2014 and is in custody for about 340 days in connection with ST No. 86/2014 arising out of Agartala PS Case No. 346/2013 under Sections 302/120(B)/34 of IPC and Section 27 of the Arms Act. Heard Mr. S Chakraborty, learned counsel appearing for the custody accused as well as Mr. A Ghosh, learned PP for the State.

Mr. Chakraborty while appearing for the custody accused Abu Sayed Miah would contend that earlier the bail petition of the accused person was rejected by this Court on 25.09.2014 but one Dipak Miah, who had surrendered in connection with the instant case, was granted bail for his treatment as he was suffering from cardiac problem. He further submits that the custody accused Abu Sayed Miah is in custody for more than 340 days and at present his brother, namely, Dulal Miah is suffering from cancer and the Medical Board has referred him to Apollo Gleneagles Hospital, Kolkata for his treatment. As there is no adult male member in the family of his brother, it would be proper for this Court to grant bail to the custody accused person even for a week so that he can make all arrangements for treatment of his brother. Mr. Chakraborty also assured this Court that the custody accused person Abu Sayed Miah would surrender after completion of the period of one week. On the other hand, Mr. Ghosh, learned PP submits that all the accused persons have not yet been arrested and some of them are still absconding. He also submits that for causing arrest of the absconding persons Red Corner Notice has been issued. He further submits that if the accused Abu Sayed Miah is released on bail then there is every possibility of his absconding to Saudi Arabia, Malaysia through Bangladesh as most of the relatives of the custody accused person are living in Bangladesh.

As this Court earlier rejected the bail prayer giving detailed reasons it would not be necessary for this Court to give detailed reasons again. In view of the fact that the brother of the custody accused Abu Sayed Miah is suffering from Cancer and there is no other adult male member in his family who can make arrangements for sending his brother Dulal Miah to the referred hospital, this Court is of the considered opinion that the custody accused Abu Sayed Miah can be granted bail for a limited period of one week.

Normally, in such type of cases, the Court should not grant bail but after considering that his brother Dulal Miah is in his death bed due to cancer, the accused Abu Sayed Miah is granted bail for seven days only on furnishing a bail bond of Rs. 50,000/- with two sureties of the like amount, who shall be the government employees, to the satisfaction of the learned trial court on further condition that, while he is on bail, he shall appear before the IO of the case every day and after completion of the period of seven days he shall surrender before the trial court, i.e. the Addl. Sessions Judge, Court No. 03, West Tripura, Agartala on 20.02.2015 and the trial court shall take all necessary steps for taking him into custody. During the aforesaid period of seven days he shall not leave the jurisdiction of West Agartala P.S.

It is made clear that if on 20.02.2015 he does not surrender then the trial court shall take all necessary steps for taking him back into custody.

With the aforesaid order, the instant bail application is allowed.