

THE HIGH COURT OF TRIPURA
AGARTALA

BAIL APPLICATION NO.15 OF 2015

Sri Arnab Chakraborty,
S/O. Late Ardhendu Chakraborty,
Resident of Reshambagan,
P.S.-East Agartala,
District-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	: Mr. P.K. Biswas, Sr. Advocate, Mr. P. Majumder, Advocate, Ms. C. Bhowmik, Advocate.
For the respondent	: Mr. A. Ghosh, Public Prosecutor.
Date of hearing	: 19.02.2015.
Date of judgment	: 03.03.2015.
Whether fit for reporting	: NO.

JUDGMENT & ORDER

This application for grant of bail has been filed by the petitioner Sri Arnab Chakraborty in respect of case No.156 of 2014 registered with West Agartala Police Station under sections 120(B)/403/409/420/468/471/477A of the Indian Penal Code(IPC).

2. The petitioner has been behind bars since 13-09-2014 and it is urged by Mr. P.K. Biswas, learned Sr. Counsel, that the petitioner has now spent more than 5(five) months in jail.

According to Sri Biswas, the investigation is complete and, therefore, there is no need to keep the petitioner in jail any longer. Mr. Biswas has also cited the judgment of the Apex Court in ***Sanjay Chandra vs. Central Bureau of Investigation and other connected matters [2012 CRI.L.J. 702]*** wherein the Apex Court after referring to the earlier judgments held as follows:-

“14. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, ‘necessity’ is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the

most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.

15. *In the instant case, as we have already noticed that the "pointing finger of accusation" against the appellants is 'the seriousness of the charge'. The offences alleged are economic offences which has resulted in loss to the State Exchequer. Though, they contend that there is possibility of the appellants tampering witnesses, they have not placed any material in support of the allegation. In our view, seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications but that is not the only test or the factor : The other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under the Indian Penal Code and Prevention of Corruption Act. Otherwise, if the former is the only test, we would not be balancing the Constitutional Rights but rather "recalibration of the scales of justice." The provisions of Cr.P.C. confer discretionary jurisdiction on Criminal Courts to grant bail to accused pending trial or in appeal against convictions, since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District*

Judge, which is affirmed by the High Court, in our opinion, a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognized, then it may lead to chaotic situation and would jeopardize the personal liberty of an individual.”

Relying upon the aforesaid observations of the Apex Court, Sri Biswas urges that the petitioner is also entitled to bail.

3. On the other hand, it is contended by Mr. A. Ghosh, learned Public Prosecutor, that the petitioner is involved in defalcation of huge amounts of money and bail cannot be granted to him. It is urged that in case the petitioner is enlarged on bail, there is every likelihood of his absconding and in this regard, it is submitted that even when the FIR was filed, the petitioner had fled outside the State of Tripura.

4. True it is that the general rule is bail, not jail. However, each case has to be decided on its own peculiar facts. As far as the present case is concerned, the prosecution story is that the petitioner Arnab Chakraborty who was cashier in the Rastriya Madhyamik Shiksha Abhiyaan (RMSA) produced a forged letter which purported to authorize him to receive all cheques and payments. It is also alleged that the petitioner forged the signatures of various officials of the RMSA. When the crime was detected, the petitioner fled from Tripura and lookout notices had to be published against the petitioner in various newspapers. After

obtaining search warrant, search was carried out in the house of the petitioner and a lot of incriminating material was discovered. A number of witnesses were examined and finally, the petitioner was arrested at Kolkata on 13-09-2014. The allegations against the petitioner are very serious in nature. He is alleged to have embezzled huge amounts of money. The petitioner had not surrendered or willingly appeared but was arrested from Kolkata. Therefore, the apprehension of the State that he may leave Tripura if he is granted bail is not unfounded.

5. As such, I find no reason to grant bail to the petitioner at this stage and the application is accordingly rejected.

CHIEF JUSTICE