

THE HIGH COURT OF TRIPURA
AGARTALA

BAIL APPLICATION NO.20 OF 2015

Shri Prantosh Das,
S/O. Shri Kshitish Chandra Das,
Resident of Village, 60 card, Gandacherra,
P.O. and P.S.-Gandacherra,
District-Dhalai.

..... **Accused Person.**

For and on behalf of the Accused person:

Shri Kshitish Chandra Das,
S/O. Late Satish Das,
Resident of Village, 60 card, Gandacherra,
P.O. and P.S.-Gandacherra,
District-Dhalai.

..... **Petitioner.**

- V e r s u s -

The State of Tripura,
Represented by the Secretary,
Home Department,
Government of Tripura, Agartala.

..... **Respondent.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioner	: Mr. A.K. Bhowmik, Sr. Advocate, Ms. K. Deb, Advocate, Ms. A. Banik, Advocate.
For the respondent	: Mr. R.C. Debnath, Addl. Public Prosecutor.
Date of hearing	: 27.02.2015.
Date of judgment	: 03.03.2015.
Whether fit for reporting	: NO.

JUDGMENT & ORDER

This petition for grant of bail has been filed by the petitioner Sri Kshitish Chandra Das on behalf of accused Sri Prantosh Das in respect of case No.346 of 2013 registered with West Agartala Police Station under sections 302/34 of the Indian Penal Code(IPC). The charge-sheet has been filed and the trial is now proceeding.

2. Sri A.K. Bhowmik, learned Sr. Counsel on behalf of the petitioner, contends that the name of the accused is not mentioned in the FIR and the only evidence against him are the so called statements made by the co-accused during the course of investigation which according to Mr. Bhowmik are not admissible in evidence. It is, therefore, submitted that this is a case of no evidence and bail should be granted.

3. As far as non-mentioning of the name of the accused in the FIR is concerned, I find that that is of no consequence. The FIR was lodged by the niece of the deceased who was not an eye witness and came later and all she knew was that some persons got down from a dark coloured Alto car and assaulted Dilip Ghosh, stabbed him and also fired upon him. She has only named one Abu Sayed as a suspect since the relation between Dilip Ghosh and Abu Sayed were strained for a long time. The complainant niece would have no knowledge about who committed the offence and, therefore, non-mentioning of the name of the accused in the FIR is of no consequence. In the Charge-sheet what has been alleged is

that the accused persons together attacked the deceased with sharp edged weapons, gunshot etc. and that since the accused was part of that group which attacked the deceased, he is equally liable for the offence.

4. At this stage when the trial is still to proceed, I am of the considered view that bail cannot be granted to the accused. Some of the accused persons have made confessions wherein they have not only admitted that they had committed the crime but have also named the present accused. Whether these statements can be read in evidence or not is for the trial Court to decide.

5. The offence in question is a serious offence. The accused is charged with having been part of a conspiracy to murder Dilip Ghosh. There are many other cases pending against the accused. Some of them are of serious nature. The trial Court will decide whether the accused has committed an offence or not. The charge against him is a very serious charge. In this case, the learned trial Court had passed a detailed reasoned order rejecting the application for grant of bail by the accused and some of the circumstances against the accused are that the fire arm recovered from him was the weapon used in the commission of the offence. Another fire arm has been recovered from the possession of the accused in respect of another case registered at Ambassa. It has also been found by the trial Court that the accused was absconding during investigation and, therefore, charge-sheet had to be filed

against other accused and the investigation continued against the present accused.

6. Investigation is still continuing and in view of the seriousness of the charge, I find no reason to grant bail to the accused.

7. The bail application is accordingly rejected.

8. Send back the lower court records forthwith.

CHIEF JUSTICE