

Case No :BA 0000021/2015

Party Name : HAREKRISHNA GHOSH ON BEHALF OF ACCD. DIPAK DEBNATH @ SONA
Vs THE STATE OF TRIPURA

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

This petition for grant of bail has been filed by the petitioner Shri Harekrishna Ghosh on behalf of accused Sri Dipak Debnath, who has been charged with having committed offences punishable under Section 498A and 304(B) IPC.

The undisputed facts are that the accused was married to the victim on 22.11.2010. It is also not disputed that within 7 years of the marriage the wife committed suicide on 12.11.2014. The allegations are that the wife committed suicide because of the cruelty inflicted on her by the husband and also on account of the fact that a demand for dowry was made and this demand having not been met the victim was harassed and treated with cruelty forcing her to commit suicide.

On behalf of the State, it is urged that this offence is a heinous offence. It is also urged by Mr. Debnath, learned Addl. P.P. that this offence affects society and therefore, bail should not be granted in such a case.

On the other hand, Mr. Bhattacharjee, learned counsel submits that the accused has been behind bars since 13.11.2014. The investigation is complete. The charge sheet has been filed and all the main witnesses who are sought to be examined by the police are close relatives of the deceased and the complainant and therefore, there is no chance of the accused in any manner tempering with the prosecution evidence. It is also urged that even if the statement made by the complainant is accepted to be a gospel truth no offence under Section 304(B) is made out.

At the stage of granting bail, this Court is not to decide whether an offence under a particular Section is made out or not but one will have to see whether the allegations even if believed would constitute the offence which the accused is charged with.

I have gone through the statement of the father and his allegation is that at the time of the wedding, various gifts were given to the daughter, but there is no allegation that at the time of marriage anything was demanded. 6 months after the marriage, the husband demanded Rs.30,000/- and after some time he returned this Rs.30,000. Thereafter, the husband again demanded a sum of Rs.30,000/- and this amount was also advanced to the husband. It is also alleged that some more money was demanded. It is further alleged that this amount was not returned by the husband and thereafter, the husband has started treating his wife with cruelty which led her to commit suicide. In the entire statement, there is not a word that this demand was raised in connection with the marriage. The case of the husband is that he had taken Rs.30,000/- initially as a loan for expansion of his business. He had later returned the amount and then he had again borrowed a sum of Rs.30,000/- for further expanding his business. The husband denies that any other demands have been raised.

At this stage, one is not going to the other aspects of the matter, but one thing which stands out is that there is not a word in the statements that the demand is in relation to the marriage. This Court is not deciding the case on merits which the Trial Court shall do on the basis of the evidence led before it.

It should be clearly understood that bail should not be refused as a way of punishing the accused. There is a presumption of innocence attached to every accused even one accused of committing dowry death. The accused cannot be held guilty and punished till he is found guilty. It is settled law that bail not jail should be the rule. However, while granting bail where the offences with which the accused is charged with are very heinous or where there is danger of the accused tampering with the prosecution evidence or even in those cases where the release of an accused on bail can send a bad message to society. There are factors to be considered for rejection of the bail.

At the same time, this Court cannot lose sight of the fact that the liberty of a citizen is the most important fundamental right granted of every citizen. In fact liberty is a human right which every citizen enjoys as a matter of right. While deciding such cases one has to strike a balance between the right of liberty of the petitioner and the rights of the State to keep a person behind bars. In this case, the investigation is complete. The charge sheet has been filed. The case is listed for evidence. This Court must ensure that the accused is available in Court and does not delay the proceedings. This can be done by issuing necessary directions.

(i) In view of the above discussion, I am clearly of the view that the accused is entitled to be released on bail on his furnishing a bail bond in the sum of Rs.20,000/- (Rupees Twenty thousand) with one surety in the like amount.

ii) The accused shall not delay the trial. In case, the accused does not appear on any date in the trial without except in a case where he is admitted in a Government hospital his bail shall stand automatically cancelled and the Trial Court shall not grant him bail and he shall have to approach this Court again for grant of bail.

iii) In case, the prosecution finds that the petitioner is trying to tamper with the prosecution evidence or is trying to influence the witnesses then the prosecution is at liberty to approach this Court for cancellation of the bail.

The bail application is disposed of.