

Case No :AB 0000022/2015

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Party Name : DEBABRATA DATTA Vs THE STATE OF TRIPURA

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HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

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This application for grant of anticipatory bail has been filed by the petitioner in respect of FIR No.06 of 2015 lodged with the Pecharthal Police Station registered under sections 438/ 407/201 of the Indian Penal Code (IPC).

Briefly stated, the facts of the case are that on 02-02-2015 an FIR was lodged with the Pecharthal Police Station, District-Unakoti, Tripura. In this FIR, it was alleged that the complainant was the Manager of M/S. Madan Mohan Obhrai & Co., Agartala Branch. According to him, on 08-01-2015 one truck No.AS-25-8709 loaded with various products including 32 cartons of cigarettes was sent from the godown at Agartala for delivery to Dharmanagar. In the petition, it is alleged that at Sidongcharra the truck met with an accident and caught fire and some goods were burnt and the truck was heavily damaged. In the FIR itself, it is mentioned that the incident took place at about 5-30 p.m. on 08-01-2015 and at 5-45 p.m. the driver of the truck namely the petitioner Debabrata Dutta informed the employer over phone that his truck met with an accident and caught fire. He again called at about 9 p.m. the same day that he was waiting near the truck. According to the complainant when the complainant reached the spot, the driver had absconded and according to the complainant, those 32 cartons of cigarettes valuing more than Rs.15 lakhs had not burnt but had been stolen by the accused.

It is urged by Ms. R. Purakayastha, learned counsel, that the petitioner was not the driver of the truck. She further states that even assuming that he is the driver of the truck, he himself had informed the employer about the accident and he remained there till about 9 O'clock and thereafter left the spot.

I have heard Mr. R.C. Debnath, learned Addl. P.P., who submits that the petitioner has signed various documents to show that he was in-charge of the truck.

I am not going into this aspect of the matter. Assuming that the driver was driving the truck, it is not disputed that the truck met with an accident at 5-30 p.m. and that it caught fire. These facts are undisputed. It is also not disputed that the driver immediately informed his employer that the truck had met with an accident and had got burnt. This happened at 5-45 p.m. It is the case of the complainant himself that at 9 p.m. the driver again rang him up that he is standing near the vehicle. In the FIR it is not stated, (i) when the complainant went to the vehicle? (ii) did he go the same night? (iii) did he go the next day? or (iv) did he go after two days?

This Court cannot expect the driver to stay with the vehicle on the middle of the road at late hours of the night, especially once he has informed his owner about the occurrence which had taken place. There is not a word in the complaint that the owner directed the driver to immediately file a complaint with the police. There is not a whisper in the complaint why the same was filed after 26 days.

In this view of the matter, it cannot be said with certainty that the accused has stolen the cigarettes. This is a matter which the trial Court will decide on the basis of the evidence led before it. Therefore, I feel that this is a fit case for grant of bail to the petitioner.

Therefore, it is ordered that in the event of his arrest, the petitioner shall be enlarged on bail on his furnishing a bail bond in the sum of Rs.10,000/- (rupees ten thousand) with one surety in the like amount to the satisfaction of the Arresting Officer subject to the following terms and conditions:-

- (i) That, the petitioner shall appear before the Investigating Officer at 11.00 a.m. on Thursday (12.03.2015). He shall also appear before the Investigating Officer on every subsequent date for which a written notice is served upon him;
- (ii) The petitioner is further directed not to tamper with or in any manner influence the prosecution witnesses;
- (iii) The petitioner is further directed not to in any manner try to influence any of the prosecution witnesses;
- (iv) The petitioner is further directed not to cause any hindrance in the investigation;
- (v) The petitioner shall not leave Tripura without permission of the appropriate Court;
- (vi) In case, the petitioner violates any of the conditions or tries to delay the trial the prosecution shall be at liberty to apply for cancellation of bail.

Any observations made in this petition have been made only for the purpose of deciding the bail application and shall not influence the trial Court in any manner while disposing of the case.

On the petitioner filing application for supply of the copy on payment of appropriate fees, the copy of the same shall be supplied to the petitioner by tomorrow.