Case No :AB 0000027/2015

Party Name : PRADIP SARKAR & ORS Vs THE STATE OF TRIPURA

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

This is an application for grant of anticipatory bail filed by the five accused applicants in respect of P.S. Case No.35 of 2015 registered with P.S. Bishalgarh under Sections 498-A, 307 and 120-B of IPC.

Briefly stated, the undisputed facts are that the victim Kanika Debnath(Sarkar) was married to applicant No.1, Pradip Sarkar more than 7 years prior to the occurrence.

The case of the prosecution is that the applicant No.1, Sri Pradip Sarkar, poured kerosene oil on the victim and set fire to her.

The informant-complainant is the brother of the deceased and according to him, on 1st March, 2015 Pradip Sarkar poured kerosene oil on the victim, who is his sister and when she wanted to come out of the room she was prevented by accused Dulal Biswas and Nirmal Biswas from doing so. Both of them are maternal uncles of Sri Pradip Sarkar. It is alleged that the other two applicants Sri Santosh Nama and Smt. Anju Nama instigated Pradip Sarkar and all these accused persons were torturing the deceased.

The dying declaration of the deceased has been produced before me. Without going into the merits of the case and accepting this dying declaration to be correct, in the dying declaration the victim had only complained that her husband poured kerosene oil on her and set her on fire. In this dying declaration there is no reference to any other accused. This Court is not dealing with the merits of the case and the trial Court shall decide whether the other persons are to be acquitted or not but *prima facie* I am of the view that though a serious offence is made out against Pradip Sarkar who is alleged to have murdered his wife and, therefore, he cannot be granted bail, as far as the other petitioners i.e. Sri Santosh Nama, Sri Dulal Biswas, Sri Nirmal Biswas and Smt. Anju Nama are concerned, from the material on record especially the dying declaration of the deceased the offences made out against them are not of such a serious nature.

Therefore, it is ordered that in the event of their arrest, the applicants(***Sri Santosh Nama, Sri Dulal Biswas, Sri Nirmal Biswas and Smt. Anju Nama)*** shall be enlarged on bail on their furnishing a bail bond in the sum of ***Rs.10,000/- (Rupees ten thousand)*** each with one surety in the like amount to the satisfaction of the Arresting Officer subject to the following terms and conditions:-

(i) The applicants are directed not to tamper with or in any manner influence the prosecution witnesses;

(ii) The applicants are further directed not to in any manner try to influence any of the prosecution witnesses;

(iii) The applicants are further directed not to cause any hindrance in the investigation;

(iv) That applicants 2 to 4 shall appear before the Investigating Officer at 11.00 a.m. on ***Monday (30.3.2015)*** and thereafter on every date for which a written notice is served upon them. As far as applicant No.5, Smt. Anju Nama is concerned, she being a lady, she should be interrogated at her residence and it shall be ensured that she is interrogated in the presence of a lady constable in accordance with the law laid down by the Apex Court;

(v) In case, the applicant violates any of the conditions or tries to delay the trial the prosecution shall be at liberty to apply for cancellation of bail.

The application of Pradip Sarkar is rejected.

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