

Party Name : AJIT BARAN CHAKMA Vs THE STATE OF TRIPURA

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HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

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This is an application for grant of anticipatory bail filed by the applicant, Ajit Baran Chakma in respect of N.T.B Police Station Case No. 2015 N.T.B 016 under Sections 354/325/ 307/511 IPC. The applicant is alleged to have assaulted a lady and it is also alleged that he outraged the modesty of a lady(victim) and tried to disrobe her and caused injuries to her. The first submission of Mr. Roy is that the FIR was not lodged straightway to the police and it was lodged through the Court 22(twenty two) days later. It has been urged by Mr. Roy that there are various contradiction between the FIR and the statement of the victim recorded under Section 164 Cr. P.C. The last submission of Mr. Roy is that the applicant is only 19 years of age and he should be released on bail.

As far as the first submission is concerned, I find no merit of the same. From the record which has been produced it is apparent that the victim was examined in the Nutanbazar Rural Hospital by the medical officer concerned at 11 am on 26.4.2015 itself whereas the incident has alleged to have taken place on the same day at 7 am. The medical report itself shows that she had complained of assault on the same day at 7 am.

This Court has been repeatedly stating that it is the duty of the medical officer also to convey such information to the police authorities and FIR should be registered immediately.

Unfortunately, in the State of Tripura even though for the last two years this Court has time and again directed that FIR should be recorded as soon as the commission of an cognizable offence comes to the knowledge of the police officials, the practice still being followed is that they wait for the complainant to file a written complaint. This is apparent from the facts of this case also. The complainant is an uneducated tribal woman and finally she had to take the help of a clerk of a lawyer and approach the Court under 156(3) of Cr. P.C and thereafter the FIR has been registered.

I fail to understand why the FIR was not registered after the doctor had examined her and in the heading of the report it is mentioned report in case of serious injury or a poisoning etc. admitted in hospital. These are cases which are meant to be reported to the police officials and merely because the doctor or the police officials have not done their job is not a ground at this stage to say that merely because the complaint has been filed many days later it is a false complaint. Primarily, the allegation made in complaint is supported by the medical document which is of a few hours later immediately after the accident.

As far as the second submission is concerned, I have gone through both the FIR as well as the statement of the victim recorded under Section 164 Cr. P. C. This Court is not deciding the case on merits but it would suffice to mention that the contradictions are very minor in nature. These are not material contradictions. This Court cannot also lose sight of the fact that the victim is a tribal woman and she may not know Bengali very well and, therefore, some words may be mistranslated. This is a matter for the Court to decide at the time of trial of the case. As far as the age of the applicant is concerned no doubt he is 19(nineteen) years and normally this Court would not send a young boy of 19 years behind bars. However, the allegation against him is fairly serious. It is alleged that he attempted to rape a woman and tried to disrobe her and outrage her modesty.

Therefore, at least some days custodial investigation will be required. Accordingly, the anticipatory bail application is rejected. It is however made clear that after arrest the applicant can move the Court for grant of regular bail and the learned trial Court shall consider the bail application strictly on its own merits totally uninfluenced by the observations made in this order.