

Party Name : SHILA DAS (NAG) ON BEHALF OF ACCD. SWARUP DAS Vs THE STATE OF TRIPURA

---

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

---

This is an application for grant of bail filed by the petitioner Smt. Shila Das (Nag) on behalf of accused Swarup Das in respect of FIR No.53 of 2015 registered with Teliamura Police Station under Sections 366A read with Section 376(1) of the Indian Penal Code and under Section 4 of the Protection of Children from Sexual Offences Act, 2012.

Briefly stated, the facts of the case are that the father of the victim lodged a complaint with the Teliamura Police Station on 08.05.2015 in which it was stated that on the same day at about 8-15 p.m. his daughter (name withheld and hereinafter referred to as "the victim") went to the tube well to wash herself. When the father came out later, he found that the girl was missing. He suspected that she had been kidnapped. Thereafter, the girl was recovered along with the accused. The accused was arrested and the victim girl made a statement before the Judicial Magistrate Ist Class, Khowai in which she clearly stated that she had eloped with the accused and had gone with him to Dharmanagar. Then they went to Silchar and solemnized their marriage there. According to the victim, she is married to the accused and wants to reside with the accused. The father has also filed an affidavit in which it is stated that he has filed the complaint under misconception and he has now come to know that his daughter had voluntarily gone with the accused.

The only ground for filing a case is that according to the birth certificate the date of birth of the victim is 16.08.1997 and she would complete 18 years of age on 16.08.2015 and the occurrence took place on 08.05.2015, i.e. little more than 3(three) months before she attains the age of 18 years.

Without going into the question whether this age has been proved or not, keeping in view the statement of the victim as well as the affidavit of the father, I am clearly of the view that no purpose shall be served by keeping the accused in jail. The purpose of looking into the question whether bail should be granted or not is not to punish the accused but to ensure that effective justice is done to all concerned. Here the girl will be 18 years in a few months and if she decides to legally get married to the accused, then there would be no point in even continuing with the prosecution.

Therefore, I direct that the accused Swarup Das be released on bail on his furnishing bail bond in the sum of Rs.10,000/- (rupees ten thousand) with one surety in the like amount to the satisfaction of the Judge, Special Court, Khowai, West Tripura, undertaking therein:-

(i) That, the accused is directed not to tamper with or in any manner influence the prosecution witnesses;

(ii) That, the accused shall ensure that no threat directly or indirectly is given to any of the prosecution witnesses;

(iii) The accused is further directed not to cause any hindrance in the investigation;

(iv) The accused shall not leave Tripura without permission of the appropriate Court;

(v) The accused shall appear before the trial Court on each and every date of hearing. In case, he absents himself on any date, then the trial Court shall cancel the bail and the accused shall be arrested. Thereafter, the accused shall have to approach this Court for grant of bail;

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

With these observations, the bail application is disposed of.

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.