

Case No :BA 0000056/2015

Party Name : ANIMESH DEBNATH FOR AND ON BEHALF OF ACCUSED SUPARNA
DEBNATH @ MITHU Vs STATE OF TRIPURA

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

This application for grant of bail has been filed by the applicant Sri Animesh Debnath on behalf of accused Smt. Suparna Debnath alias Mithu in connection with a case arising out of FIR No.038 of 2015 registered with Khawai Police Station under Section 302 of the Indian Penal Code (IPC).

The allegation against the accused is that on the intervening night of 18.4.2015 and 19.4.2015 she murdered her husband and threw his body in a pond near the house.

The entire case of the prosecution against the wife is based on a so called confession made by the wife to the police and to an executive magistrate while she was in the custody of the police. The police also relied upon the recovery of one '*Bati Dao*' to link the accused with the offence. As far as the confession is concerned i.e. entirely inadmissible in evidence. No confession made by an accused either to the police or to any person while in custody of the police except a confession made before a judicial magistrate in terms of Section 164 Cr.P.C is admissible in evidence.

At best what is admissible is the recovery of the *Bati Dao*. This Court at this stage is not saying anything on the merits of the case but that *Bati Dao* has to be linked to the murder and also it has to be shown that it belonged to the accused and was her *Bati Dao*.

The children of the accused and her deceased husband were in the house. It is the case of the prosecution that the murder was committed late at night and next morning at about 5.00 a.m. Uma Debnath daughter of the deceased and accused came to the house of Nani Debnath, elder brother of the deceased and informed him that their father's dead body has been found floating in the pond near their house. Further, according to the prosecution, Uma Debnath had first seen the body in the morning. I had called the investigating officer on the last date of hearing and he gave no explanation to me why the statement of Uma Debnath had not been recorded by the police at all. She was the primary witness in the case. In this view of the matter, it cannot be said with certainty that the accused is bound to be found guilty of having committed the murder of her husband.

The investigation of the case is virtually complete. Only the serological reports have to be received. The accused cannot influence the prosecution witnesses. She has already been in jail for 84 days. She has two young children who have nobody else to look after them and keeping all these factors into consideration, I direct that the she (**Smt. Suparna Debnath alias Mithu**) be released on bail on her furnishing bail bond of **Rs.20,000/- (Rupees twenty thousand)** with one surety of the like amount to the satisfaction of the trial Court subject to the following terms and conditions :

- (i) That, the accused person 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
- (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 undertake to appear before the trial Court on each and every date and in case the accused person fails to appear before the trial Court then the trial Court shall cancel the bail and the accused shall be arrested. Thereafter, the said person shall have to approach this Court for grant of bail;
- (vi) In case, the accused violates any of the conditions or try to delay the trial, the prosecution shall be at liberty to approach this Court for cancellation of bail.

The bail application is disposed of in the aforesaid terms.

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