

Party Name : ABDUL BARIK ON BEHALF OF ACCD. ABUL HOSEN ABBAS Vs THE STATE OF TRIPURA

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THE HONBLE MR. JUSTICE S.C.DAS

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Heard learned counsel, Mr. A. Bhowmik for the petitioner and learned Addl. P.P., Mr. R.C. Debnath for the State respondent.

This is a petition under Section 439 of CrPC praying for bail of accused Abul Hosen Abbas in connection with Salema P.S. Case No.2015SLM022 under Sections 489(B)/489(C)/ 34 of IPC.

The accused having been arrested on 24.07.2015, *i.e.* the date of lodging the FIR is in custody and now is under treatment at G.B. Hospital, Agartala.

It is submitted by learned counsel, Mr. Bhowmik that the accused, while was detained, was badly manhandled and, he sustained injuries on his head and abdomen and other parts of the body, and as a result of which immediately after his detention he was shifted to BSM Hospital, Kamalpur from where he was referred to G.B. Hospital, Agartala and he is still under treatment at G.B. Hospital and his condition is serious. It is also submitted by Mr. Bhowmik, learned counsel that the accused may be required to be taken to outside the State for better treatment and therefore prays for bail of the accused.

On the other hand, learned Addl. P.P., Mr. Debnath submits that the accused along with another Bapi Miah were caught red-handed while they were carrying fake Indian currency notes amounting to `92,000/-(rupees ninety two thousand) and riding a motor bike they tried to escape from the spot where the police intercepted them and at that time the accused Abul Hosen Abbas slipped from the motor bike and sustained some injuries. Both the accused Abul Hosen Abbas and Bapi Miah were arrested and Bapi Miah has been taken to police custody but the accused Abul Hosen Abbas because of his suffering injuries was treated at BSM Hospital, and now he is under treatment at G.B. Hospital.

Learned counsel, Mr. Bhowmik referring to some documents, *i.e.* the discharge certificate of BSM Hospital submits that he was brought in BSM Hospital in an unconscious condition and while he was referred for CT scan for brain, clinical notes mentioned that there was polytrauma following physical assault with blunt, trauma head. Such entry in the clinical note indicates that he was physically assaulted.

Learned Addl. P.P. on the other hand has submitted that it was a clinical note on the basis of the report given by the patient party and is not the observation of the hospital. Might be he was brought in the BSM Hospital in an unconscious condition because of the accident held on 24.07.2015 at the time of apprehension but now his health condition is good.

Case diary is produced and learned Addl. P.P. referred the medical report submitted by Dr. Niladri Sengupta, Medical Officer of MS-I, AGMC & GBP Hospital, Agartala dated 01.08.2015, wherein it is clearly mentioned that Abul Hosen Abbas, aged 27 years, S/O Abdul Barik who was admitted in MS-I Ward, AGMC & GB Hospital, with history of alleged assault is at present complaining of headache. The reports of CT scan of brain and other blood report are normal. His present condition is stable and he is conscious and oriented. Report of MRI is pending. One CECT whole abdomen will be done on 04.08.2015.

He is under treatment, no doubt, for the injuries. It is the allegation of the petitioner that he was physically assaulted. On the other hand, it is the case of the State-respondent that he suffered injuries at the time when he was detained because of motor bike accident since he and the other accused tried to flee away from being detained by the police.

Under such circumstances of the case, at this stage, I am not inclined to grant bail to the accused. Bail prayer of the accused, is therefore, stands rejected.

Case diary is returned to learned Addl. P.P.