

Party Name : NIHAR ROY ON BEHALF OF ACCD. RAJIB ROY Vs THE STATE OF TRIPURA

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HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

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The Investigating Officer who is present in person submits that the charge-sheet could not be filed because the handwriting expert has not given his expert opinion. He has also pointed out that the handwriting expert comes to Tripura once a month for 10(ten) days only.

This explanation of the Investigating Officer is accepted.

This is an application for grant of bail filed by the petitioner Sri Nihar Roy on behalf of accused Rajib Roy who is charged of having committed an offence of murder in connection with Killa P.S. Case No.02 of 2015 registered under Section 302 of the Indian Penal Code read with Section 27 of the Arms Act.

It is urged by the learned counsel that the investigation is virtually complete and only report of the expert is awaited and, therefore, the accused should be enlarged on bail.

The offence is very serious and I am not inclined to grant bail in a case of murder, especially when in Tripura the Code of Criminal Procedure (Cr.P.C.) has been amended and by the impugned amendment, after section 439 section 439A has been added which reads as follows:-

*“439A. Power to grant bail.—Notwithstanding anything contained in this Code, no person,—*

*(a) who being accused of or suspected of committing an offence under sections 120B, 121, 121A, 122, 123, 124A, 153A, 302, 303, 304, 307, 326, 333, 364, 365, 366, 366A, 366B, 367, 368, 376, 386, 387, 392, 394, 395, 396, 397, 399, 412, 436, 449 and 450 of the Indian Penal Code, (45 of 1860) and sections 25, 26, 27 and 28 of the Arms Act, 1959 (54 of 1959) and sections 3, 4, 5 and 6 of the Explosives Substances Act, 1908, (Act VI of 1908), is arrested or appears or is brought before a Court; or*

*(b) who, having any reason to believe that he may be arrested on an accusation of committing an offence as specified in clause (a) has applied to the High Court or Court of Session for a direction for his release on bail in the event of his arrest, shall be released on bail or, as the case may be, directed to be released on bail except on one or more of the following grounds, namely:-*

*(i) that the Court including the High Court or the Court of Session for reasons to be recorded in writing, is satisfied that there are reasonable grounds for believing that such person is not guilty of any offence specified in clause (a);*

*(ii) that such person is under the age of sixteen years or a woman or a sick or infirm person;*

*(iii) that the Court including the High Court or the Court of Session, for reasons to be recorded in writing, is satisfied that there are exceptional and sufficient grounds to release or direct the release of the accused on bail.”*

After going through the record, it cannot be said that there is no *prima facie* case against the accused and, therefore, the bail application is rejected.