

Party Name : ALOK DAS ON BEHALF OF ACCD. ASHMITA DEB & ANR Vs THE STATE OF TRIPURA

---

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

---

This application for grant of bail has been filed by the petitioner, Sri Alok Das on behalf of the accused persons namely, Smt. Ashmita Deb and Sri Abhijit Das in respect of Airport P.S Case No. 2015 ARP 044 dated 05.07 registered under Section 302/379/34 of the Indian Penal Code.

This is rather unusual case where the allegation of the prosecution is that the husband of the accused No.1 and brother-in-law of the accused No.2 committed suicide because of the harassment and ill treatment meted out to him by his wife and in-laws.

The prosecution case is that on 03.07.2015 there was 'Annaprasan' ceremony of the newly born daughter of the deceased and accused No.1, Smt. Ashmita Deb. The complaint has been filed by the father of the deceased and in the complaint it is alleged that the wife of the deceased son, Ashmita, his father-in-law Sri Alok Das, his mother-in-law, his brother-in-law, Sri Abhijit Das and some friends of Abhijit Das were sitting in a separate room from that of the son. They were having a party and at about 1.30 am there was a hue and cry from the room of his son. When he rushed to the house of his son he found that the body of his son was hanging in the kitchen and the accused persons were bringing the body down. The allegation of the complainant was that he suspected that his son has been killed by the accused persons.

According to the complainant the deceased was beaten up by the accused persons and he also suspected that he was killed by them.

I have gone through the post mortem report and other than the ligature mark of hanging and one small abrasion on the right elbow, there is no injury on the dead body to indicate that the deceased was beaten up before he died. It would be pertinent to mention here that before the learned Additional Sessions Judge, West Tripura, the Public Prosecutor admitted that the ingredients of Section 302 were missing and bail has been rejected only on the ground that ingredients of section 306 IPC are present.

This Court is not deciding the merits of the case but at the present moment on the basis of the evidence on record there is very remote chance of the petitioner being held guilty of having committed murder. The offence of abetment of suicide is not such a serious offence. Furthermore, there is no direct evidence of abetment at this stage. In the FIR it is written that the complainant believes that his son may have been killed. The suicide of a husband is different from a suicide of a wife. Under Section 304B of the IPC different circumstances come into play. There is no section comparable to Section 498A which comes to the aid of the husbands. Abetment will have to be proved during the trial.

The accused persons have been behind bar for 45(forty-five) days. Investigation is almost complete. Accused No.1 is a lady who has a small child of 6(six) months, who unfortunately lost her father on the day of her 'Annaprasan' ceremony. The interest of the child also has to be taken into consideration. It is not a case where it can be said with certainty that the accused persons are guilty of murder. This is an issue which will have to be decided during trial. However, I feel that keeping in view the fact that the accused No.1 is a lady, that she has a young child of only six months and also the fact that even according to the findings given by the Court below and the submission made by the Public Prosecutor before the Court below offence, if any, is under Section 306 IPC, I feel that this is a fit case for grant of bail.

Accordingly, the bail application is allowed and the accused persons namely, Smt. Ashmita Deb and Sri Abhijit Das are ordered to be released on bail on their furnishing bail bond in the sum of Rs.25,000/- (rupees twenty five thousand) each with one surety in the like amount to the satisfaction of the learned Trial Court undertaking therein:-

- (i) That, the accused persons are directed not to tamper with or in any manner influence the prosecution witnesses;
- (ii) That, the accused persons shall ensure that no threat directly or indirectly is given to any of the prosecution witnesses;
- (iii) The accused persons are further directed not to cause any hindrance in the investigation;
- (iv) The accused persons shall not leave Tripura without permission of the appropriate Court;
- (v) The accused persons shall appear before the trial Court on each and every date of hearing. In case, they absent themselves on any date, then the trial Court shall cancel the bail and the accused persons shall be arrested. Thereafter, the petitioner-accused shall have to approach this Court for grant of bail;
- (vi) If the accused persons violate any of the aforesaid conditions or tries to delay the trial then the prosecution shall be entitled to approach this Court for cancellation of the 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.