

Party Name : AMBIA KHATUN Vs THE STATE OF TRIPURA

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

This is an application for grant of anticipatory bail filed by the accused applicant in respect of P.S. Case No.107 of 2015 registered with P.S. Sonamura under Sections 376(2)(f) and 325 of IPC.

The complaint makes very interesting story. The complainant is a 25 year old lady. She states that in the year 2007 she was married to one Abul Kassem. Three years after the marriage i.e. in 2010 a female child was born out of this wedlock. After about one and half years i.e. somewhere in the year 2011 or 2012 her husband left for Kuwait. She was residing in her father-in-law's house and according to the applicant, she was forcibly raped by her brother-in-law for more than one and half years. She says that she complained about it to her mother-in-law but the mother-in-law told her that this is a minor thing which happens where there is a brother-in-law. For one and half years this woman did not complain to anybody else and there is no allegation that she was under any restraint of any kind.

According to her, after her husband came back from Kuwait she told him about her being raped by her brother-in-law and then her husband refused to accept her. According to her, she did not complain to anybody because the brother-in-law had promised to marry her. Even amongst Muslims polygamy to a limited extent is allowed but polyandry is not permitted. How could this woman who is mature and aged 25 years believe that when her husband is alive she would get married to another man? Lastly, according to this complainant, she after giving birth to a child on 10th July, 2015 went to her father-in-law's house and asked her brother-in-law to marry her and when he refused to do so she has filed this case. *Prima facie* I am of the view without going into the merits of the case that the accused cannot be held guilty of having committed an offence punishable under Section 376 IPC.

Therefore, it is directed that in the event of her arrest, the applicant (**Ambia Khatun**) shall be enlarged on bail on her furnishing a bail bond in the sum of **Rs.10,000/- (Rupees ten thousand)** with one surety in the like amount to the satisfaction of the Arresting Officer subject to the following terms and conditions:-

- (i) That, the applicant is directed to cooperate with the investigation. Since the applicant is a lady, she shall, as far as possible, be questioned at her residence in the presence of a lady constable;
- (ii) The applicant is further directed not to tamper with or in any manner influence the prosecution witnesses;
- (iii) The applicant is further directed not to in any manner try to influence any of the prosecution witnesses;
- (iv) The applicant is further directed not to cause any hindrance in the investigation;
- (v) The applicant shall not leave Tripura without permission of the appropriate Court;
- (vi) In case, the applicant violates any of the conditions or tries to delay the trial the prosecution shall be at liberty to apply for cancellation of bail.

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.