

**HIGH COURT OF TRIPURA  
AGARTALA**

NO.F.40 (13)-HCT/BENCH/CRL/2015/ 7848-49

From: Deputy Registrar (Judl.)

**High Court of Tripura: Agartala-799010**

Dated, Agartala the 14<sup>th</sup> August, 2015.

To

1. The Chief Secretary,  
Government of Tripura, Agartala,
2. The Director General of Police,  
Tripura, Agartala.

**Sub:** Transmission of copy of the Hon'ble High Court's Judgment & Order dated 13.08.2015 passed in connection with Case No. Bail Appl. 64 of 2015 (Nikhil Chandra Tripura for and on behalf of accused Jatindra Tripura).

Sir,

In compliance with the Judgment & Order dated 13.08.2015 passed by the Hon'ble High Court in Case No. Bail Appln. 64 of 2015 (Nikhil Chandra Tripura for and on behalf of accused Jatindra Tripura), I am sending herewith a copy of the said Judgment & Order dated 13.08.2015 for your information and compliance.

Yours faithfully,

Enclosed: As stated  
15 (fifteen) sheets of paper.

*DD 14/8/15*  
Deputy Registrar (Judl.)  
High Court of Tripura,  
Agartala.

*Meeting with  
16-PC L/O on 18/8/15  
by  
7248  
- 1100 hrs*

*Pr. Convey 17/8  
ATG (C)*

**THE HIGH COURT OF TRIPURA**  
**AGARTALA**

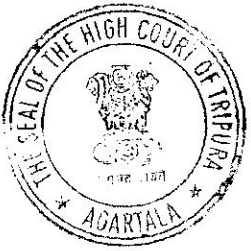
**BAIL APPLN. NO.64 OF 2015**

**Sri Nikhil Chandra Tripura,**  
S/o. Sri Sudhangshu Tripura,  
Resident of Monaigrum (Dasharathnagar),  
P.O. Poangbari, P.S. Manubazar,  
District- South Tripura.

*Petitioner on behalf of the accused*

**Sri Jatindra Tripura,**  
Son of Late Ramacharan Tripura,  
Resident of Ramarbari (Dasharathnagar),  
A.D.C Village, Sabroom,  
P.S. Manubazar,  
District- South Tripura.

*Accused person in-custody*



**By Advocate :**

Mr. S. Ghosh, Advocate.

**Respondent :**

The State of Tripura.

**By Advocate :**

Mr. A. C. Debnath, Addl. P.P.

**BEFORE**  
**HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA**

Date of hearing : 04.8.2015

Date of Judgment & Order : 13.8.2015

Whether fit for reporting : YES

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**JUDGMENT & ORDER**

This petition for grant of bail has been filed in respect of Manubazar Police Station Case No.019 of 2015 registered against the petitioner under Section 498(A) and 306 of the Indian Penal Code, (IPC).

[2] The undisputed facts are that Rimali Tripura wife of the petitioner Jatindra Tripura committed suicide on 17<sup>th</sup> June, 2015. The father of the deceased Shri Fatish Chandra Tripura immediately informed the Police Station about this occurrence. On receipt of such information UD Case No.07 of 2015 was registered under Section 174 of the Cr.P.C.

[3] On 01.07.2015, the father of the petitioner sent a written complaint through post to the Officer-in-Charge of the Manubazar Police Station and thereafter, investigation under Section 157 of the Cr.P.C was commenced. However, no FIR was registered. An entry in this regard was made at serial No.12 dated 07.7.2015 of the G.D Register only. On 07.7.2015, Shri Amal Debnarma, Assistant Sub-Inspector of Tripura Police, posted at the Manubazar Police Station, Suo/moto lodged the complaint in the Police Station which is P.S. Case No.19 of 2015 against the petitioner under Section 498(A) read with Section 306 of the I.P.C.

[4] The case of the father of the victim is that his daughter was forced to commit suicide because of the harassment meted out to her by her husband (petitioner herein). The petitioner was arrested on 07<sup>th</sup> July 2015 and he has spent almost 4(four) weeks behind bars. The investigation is complete and no further investigation has to be carried out as far as the petitioner is concerned.

[5] The Apex Court has clearly held that in cases under 498(A) bail should normally be granted. In this case, there is an



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additional offence under Section 306 but at this stage it is difficult for this Court to decide whether the acts of cruelty are such that would forge the petitioner to commit suicide. Therefore, I am of the view that he should be enlarged on bail.

[6] Before parting with the case, I am constrained to observe that this is another case where the police has shown total lack of diligence and it is apparent that the Police Officials are not trained properly. I had called for the records of the case and I find that as per the record of the Police on 17.6.2015, information was given by Fatima Chandra Tripura, father of the deceased to the Police that his daughter had died an unnatural death by committing suicide. A case of unnatural death under Section 174 Cr.P.C. was registered in the Police Station and investigation was started.

[7] It is, indeed, shocking that in a case of unnatural death of a young girl even the statement of her father or any other close relatives were not recorded by the Police Officer who was deputed to investigate the case. The Police itself lodged the report under Section 174 of the Cr.P.C. Whenever a person dies an unnatural death the police is required to carry out an investigation and draw up a report of the apparent causes of death. The report prepared under Section 174 is required to be sent to the District Magistrate or the Sub-Divisional Magistrate especially when the suicide is by a woman. The least that was expected was that the Officer-in-Charge of the Police post should have questioned the parents of the deceased to find out why the deceased committed



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suicide. I had called the Officer (Bishu Roy Debbarma) in Court and I am constrained to observe that the Officer did not even appear to understand the basic provisions of law.

[8] Unfortunately, the matter does not end here. From the record it is absolutely clear that on 1<sup>st</sup> July, 2015 a written complaint sent by the father was received in the Police Station and entered at GD entry No.12 in the GD register.

The said entry reads as follows :

"On 01-7-2015, received a written information from one Fatish Ch. Tripura, Son of Late Bhriguram Tripura of Kanalbari P.S MNB that about nine years back his daughter Rimali Tripura was married with one Jatindra Tripura, Son of Late Rama Chandra Tripura of Ramarbari, Dasarathnagar, P.S. MNB as per tribal rituals. After four years the said Jatindra started physical & mental torture on the daughter of informant on the issue of dowry. On 17/6/2015 at about 1900 hrs. the informant learnt from people that his daughter expired in the house of her in law. Accordingly he rushed to the spot & learnt that on the night of 16/6/2015 his daughter was physically tortured by her husband. The informant believed that due to the unbearable torture and abetment of Jatindra Tripura the victim Rimali Tripura committed suicide by hanging.

It is now noted here that on the basis of written information of same informant i.e. Fatish Ch. Tripura dated 17/6/2015 an UD case was registered. On the same day vide MNB PS U/D case No. 07/15 U/S-174 Cr.P.C dated 17/6/2015 and ASI Amrit D'Barma is investigating the case.

As the offence in this subsequent information is suspected to the commission of a cog. Offence an investigation u/s 157 Cr.P.C is started and SI. Amal Debbarma of MNB P.S is entrusted to investigate the case."

[9] A perusal of the GD entry report clearly shows that in the written complaint it was alleged that the accused Jatindra Tripura started physically and mentally torturing the victim Rimali Debbarma and according to the complainant, his daughter committed suicide because of the unbearable torture and abetment of the accused. In the same GD entry it is mentioned that earlier UD case was registered with regard to the same



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offence. The Officer-in-Charge of the Manubazar Police Station directed that the investigation under Section 157 of the Cr.P.C be started and also appointed Shri Amal Debbarma of Manubazar Police Station to investigate the case. However, no FIR was lodged. The complaint of the father clearly discloses the commission of a cognizable offence. How could the Police start investigation under Section 157 Cr.P.C. without first recording the FIR?

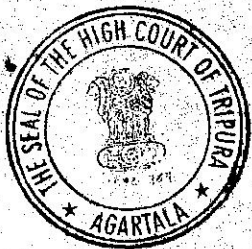
Section 154(1) of the Cr.P.C reads as follows :

"Information in cognizable cases.(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf. "

This provision clearly provides that as soon as the commission of a cognizable offence is given to an officer the same shall be reduced in writing to him and read over to the informant and shall be entered in a book to be kept. Since an FIR had been lodged the entry should have been made in the register of FIR and the case should have been registered. Assuming for the sake of argument that the information dated 17<sup>th</sup> June, 2015 did not disclose any cognizable offence, the written information given on 1<sup>st</sup> July, 2015 alleged the commission of a cognizable offence.

[10] Sub Section 3 of Section 154 reads as follows :

"154(3) Any person, aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses



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the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by the Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence:"

When the officer had received the information in writing and this information disclosed the commission of a cognizable offence, he could direct an investigation to be made by an officer subordinate to him. This was done. This was the first information and had to be treated as the First information report. A police official is empowered to investigate cognizable cases under Section 156 of the Code.

[11] Section 157 reads as follows:

"Procedure for investigation.-(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall, proceed in person, or shall depute one of his subordinate officers not being below such rank as the State government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on the investigation, he shall not investigate the case:

1[Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality.]

"(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements to that sub-section, and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated."



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Reference may also be made to regulation No.536 of the Police Regulations of Bengal, 1943 which are applicable in the State of Tripura. Regulation 536(d) reads as follows :

"536(d) On receipt of the first information report of a case the Court officer shall fill in columns 1 to 8 of the register, and, after recording on the top of the first information report its number in the general register, shall submit it and the register to the Magistrate, who will initial column 9. First information reports of heinous or important cases shall, however, be submitted to the Magistrate immediately after receipt."

It is apparent that after the First Information report is numbered, it has to be sent to the Magistrate who is required to initial column No.9 of the report. The Regulation is also very clear that in case of heinous or important cases the First information report should be submitted to the Magistrate immediately after receipt. The language of Section 157 read with the language of Regulation 536(d) leave no manner of doubt that the police is required to submit the First information report to the Magistrate "forthwith" and in case of heinous and other serious offences "immediately".

[12] In the GD entry, the Officer-in-Charge of the Manubazar police station has noted that the offence is a cognizable offence and has ordered investigation. He however, did not register any formal FIR and did not even send a copy of the FIR to the Magistrate. This is a gross violation of the law. As soon as an FIR is lodged, the same should be sent "forthwith" to the Magistrate.

[13] In Tripura, there seems to be some misconception that the FIR can be sent to the Magistrate within 24 hours. That is not

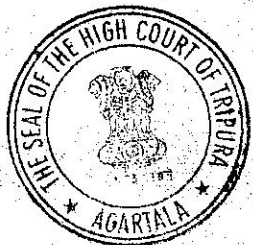


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the law. The law is that the FIR must be sent to the Magistrate "forthwith" and simultaneously the investigation should be started. Therefore, normally the practice should be that while investigation should not be delayed, report of the cognizance of the offence having been taken should also be sent to the concerned Magistrate immediately. This report has to be sent to the Magistrate in terms of Section 158. As far as the present case is concerned, this procedure was not followed. Though the information was recorded in writing it was recorded in the General Diary Register and not as an FIR. Even more shocking is the fact that this information was not sent to the Magistrate concerned. This also clearly shows that the investigation has been extremely shoddy investigation.



[14] On 7<sup>th</sup> July 2015, a suo-moto FIR was lodged. I fail to understand how this suo-moto FIR could have been lodged when in fact the First Information Report was recorded by the police at least on 1<sup>th</sup> July, 2015 if not on 17<sup>th</sup> June 2015.

[15] Another shocking aspect of the matter is that one hand sketch map was prepared on 1<sup>st</sup> July 2015, in which the place of occurrence is mentioned to be dwelling hut of the complainant. Another hand sketch map was prepared on 07.7.2015 and in this the place of occurrence is stated to be the dwelling hut of the accused.

[16] This Court in *Crl. A.(J) No.4 of 2010* had issued various directions in which we had clearly held that if the

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statement of the informant discloses commission of a cognizable offence then FIR shall be immediately recorded without waiting for any formal complaint.

Reference may be made to direction No.(vi) which reads follows.

"(vi) If the statement so recorded discloses the commission of a cognizable offence the FIR shall be recorded immediately without waiting for any formal written complaint."

In this case, the complainant had made a written complaint but still no action was taken. This is, indeed, very shocking, No FIR was registered nor such information was sent to the Magistrate concerned.

[17] The Constitution Bench of the Apex Court in *Lalita Kumari Vrs. Government of Uttar Pradesh And Others: (2014) 2 SCC* has clearly laid down the law in the following terms:

"49. Consequently, the condition that is sine qua non for recording an FIR under Section 154 of the Code is that there must be information and that information must disclose a cognizable offence. If any information disclosing a cognizable offence is led before an officer in charge of the police station satisfying the requirement of Section 154(1), the said police officer has no other option except to enter the substance thereof in the prescribed form, that is to say, to register a case on the basis of such information. The provision of Section 154 of the Code is mandatory and the concerned officer is duty bound to register the case on the basis of information disclosing a cognizable offence. Thus, the plain words of Section 154(1) of the Code have to be given their literal meaning."

"50. The use of the word "shall" in Section 154(1) of the Code clearly shows the legislative intent that it is mandatory to register an FIR if the information given to the police discloses the commission of a cognizable offence."

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"52. It is relevant to mention that the object of using the word "shall" in the context of Section 154(1) of the Code is to ensure that all information relating to all cognizable offences is promptly



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registered by the police and investigated in accordance with the provisions of law."

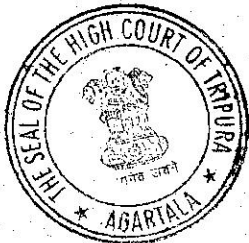
"53. Investigation of offences and prosecution of offenders are the duties of the State. For "cognizable offences", a duty has been cast upon the police to register FIR and to conduct investigation except as otherwise permitted specifically under Section 157 of the Code. If a discretion, option or latitude is allowed to the police in the matter of registration of FIRs, it can have serious consequences on the public order situation and can also adversely affect the rights of the victims including violating their fundamental right to equality."

"54. Therefore, the context in which the word "shall" appears in Section 154(1) of the Code, the object for which it has been used and the consequences that will follow from the infringement of the direction to register FIRs, all these factors clearly show that the word "shall" used in Section 154(1) needs to be given its ordinary meaning of being of "mandatory" character. The provisions of Section 154(1) of the Code, read in the light of the statutory scheme, do not admit of conferring any discretion on the officer in-charge of the police station for embarking upon a preliminary inquiry prior to the registration of an FIR. It is settled position of law that if the provision is unambiguous and the legislative intent is clear, the court need not call into it any other rules of construction."

"55. In view of the above, the use of the word 'shall' coupled with the Scheme of the Act lead to the conclusion that the legislators intended that if an information relating to commission of a cognizable offence is given, then it would mandatorily be registered by the officer in-charge of the police station. Reading 'shall' as 'may', as contended by some counsel, would be against the Scheme of the Code. Section 154 of the Code should be strictly construed and the word 'shall' should be given its natural meaning. The golden rule of interpretation can be given a go-by only in cases where the language of the section is ambiguous and/or leads to an absurdity."

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"119. Therefore, in view of various counter claims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible etc. These are the issues that have to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is



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found to be false, there is always an option to prosecute the complainant for filing a false FIR."

Conclusion/Directions:

120. In view of the aforesaid discussion, we hold:

120.1. Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further,

120.4. The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

(a) Matrimonial disputes/ family disputes

(b) Commercial offences

(c) Medical negligence cases

(d) Corruption cases

(e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay. The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

120.7. While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

120.8. Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether



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resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.

[18] This Court in *Jhunu Das Vrs. State of Tripura*: (2014) Vol.2 Tripura Law Reports 566 after making reference to the aforesaid judgment of *Lalita Kumari(supra)* had observed as follows :

"19 These directions are being reiterated once more. A copy of this judgment shall be sent to the Chief Secretary as well as the Director General of Police who shall ensure that these directions are complied with by all police officials in the State in letter and spirit, failing which this court will not hesitate to take very serious action against the police officials who do not follow these directions."

"20 Recording of an FIR is necessary as soon as a cognizable offence is disclosed. The police officials has no jurisdiction whatsoever to make an entry only in the G.D. register and not record an FIR. Directions are hereby given to all police officials in the State that in case they do not record an FIR when they come to know of a cognizable offence, then serious disciplinary action shall be taken against them and if necessary, action under the Contempt of Courts Act shall also be taken against them for violating the judgment of the Apex Court and of this court."

"21 Unfortunately, in the State of Tripura the police officials are always looking over their shoulders and seeking approval of some authorities before lodging an FIR. That is not the purpose of the Code of Criminal Procedure. The police has to be independent of any extraneous influence whatsoever. The Apex Court has now given directions which have been quoted hereinabove and the police officials must record the FIRs as soon as an offence is disclosed and they should not wait for the victim to lodge the complaint. This unfortunate and totally illegal practice which has been followed for many years in Tripura must come to an end immediately."

[19] I am sorry to observe that despite clear cut directions of the Apex Court and this Court even now the police officers in the State of Tripura are not recording FIRs straightway and are looking over their shoulder waiting for a nod of approval before filing the FIR. More than 2(two) years have elapsed since the first directions were issued. It is, therefore, imperative that now action



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should be taken against those officers who disobey the instructions of this Court and the Supreme Court.

[20] Copy of this judgment shall be sent to the Chief Secretary and the Director General of Police who are directed to ensure that these instructions are followed in letter and spirit. It shall be the duty of the Superintendent of Police to check the G.D Registers of all the police stations falling in their jurisdiction and if it is found that FIRs are not being registered then action should be taken against the erring officials. If that is not done, then this Court shall not hesitate to take action against the senior police officials who are negligent in the performance at their duties.

[21] The time has come when we must take advantage of the latest technology. Therefore, a direction is given to the Director General of Police to ensure that within 8(eight) weeks from today a scheme is prepared whereby FIR can be lodged by SMS or by Email. All police stations of the police post in the State should display a permanent Mobile Number and Email address on which address the information of a commission of an offence can be sent and this information can also be treated as an FIR if it discloses the commission of a cognizable offence.

[22] I am not initiating any contempt proceedings against the Officer-in-Charge of the Manubazar police station because in this case though he may not have recorded the FIR, he has recorded the information in the Diary. The manner in which the Officer investigated the UD case clearly shows that this officer has



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very little or no knowledge as to how a case has to be investigated. He did not even care to record the statement of any witnesses. The father should not have been compelled to file a written complaint and his statement should have been recorded by this Officer. This officer was grossly negligent in the discharge of his duties in not examining the father or other family members of the deceased.

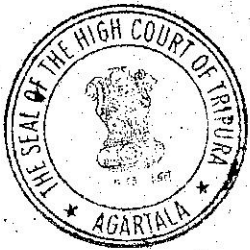
[23] As far as the Officer-in-Charge of the Manubazar police station is concerned, the manner in which he dealt with the matter on 1<sup>st</sup> July 2015 is also not proper. Therefore, a copy of the order be sent to the Director General of Police to take appropriate action against the aforesaid police officials in accordance with law. Report of such action be submitted in the Court within 3(three) months from today.

In view of the above discussion, I direct that the accused person namely Jatindra Tripura be released on bail on his furnishing bail bond in the sum of **Rs.10,000/-** (rupees ten thousand) with one surety in the like amount to the satisfaction of the learned trial Court undertaking therein:-

- (i) That, the accused 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 any of the prosecution witnesses;
- (iii) The accused is further directed not to cause any hindrance in the investigation;

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(iv) The accused shall not leave Tripura without permission of the appropriate Court;

(v) The accused person shall appear before the trial Court on each and every date of hearing. In case, he absent himself on any date, 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 person violate any of the conditions or tries to delay the trial, the prosecution shall be at liberty to apply for cancellation of 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.



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*[Signature]*  
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*Sd/- Deepak Gupta,*  
*Chief Justice.*