

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No.13 of 2022

Niyaz Ansari @ Md. Niyaz Ansari			Appellant
Versus			
The State of Jharkhand			Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant	: Mr. R.S. Mazumdar, Sr. Adv.
For the State	: Mrs. Nehala Sharmin, A.P.P.
For the Victim	: Mr. Nilendu Kumar, Adv.

05/Dated: 19th July, 2022

I.A. No.1660 of 2022

1. This interlocutory application has been filed on behalf of the appellant under Section 389 (1) of the Code of Criminal Procedure, for suspension of sentence and releases him on bail, during pendency of the instant appeal.
2. The appellant has been convicted for the offence under Sections 376 and 313 of the Indian Penal Code vide judgment of conviction dated 17.12.2021 and order of sentence dated 21.12.2021 by which the appellant has been sentenced to undergo rigorous imprisonment for eight years and fine of Rs.40,000/- for the offence under Section 376 of I.P.C. in default thereof, further to undergo one year simple imprisonment and rigorous imprisonment for seven years and fine of Rs.20,000/- for the offence under Section 313 of the I.P.C., in default thereof, to undergo four months simple imprisonment, passed by the learned Additional Sessions Judge-XII-cum-FTC (Crime Against Women), Dhanbad in Sessions Trial No.278 of 2013 arising out of Govindpur P.S. Case No.96 of 2013 corresponding to G.R. Case No.916 of 2013.
3. It has been submitted by the learned senior counsel for the appellant that the appellant is in custody since 17.12.2021. It has been alleged as per the allegation that the appellant has sexually exploited the victim girl on the pretext of marriage subsequently the marriage has taken place as per the depositions of the father and mother of the victim girl including herself. Thus, no offence is made out, so far as sexual exploitation is concerned. On the above basis, the prayer for suspension of the sentence has been made.

4. On the other hand, learned counsel for the State and the informant have opposed the prayer for bail and it has been submitted that the marriage is not being accepted by the parent of the appellant and as such he is not entitled for bail.

5. Having heard both the parties. Once there is marriage between the parties, subsequent denial or non-acceptance of marriage cannot come under the criminal act.

6. Considering the above facts, I am inclined to suspend the sentence of the appellant and enlarge him on bail on his furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-XII-cum-FTC (Crime Against Women), Dhanbad in Sessions Trial No.278 of 2013 arising out of Govindpur P.S. Case No.96 of 2013 corresponding to G.R. Case No.916 of 2013, subject to the condition that the appellant will submit self-attested photocopy of his Aadhar Card and also submit his mobile number before the learned court below which he will always keep active and will not change it during pendency of this case without prior permission of the court.

7. In the result, I.A. No.1660 of 2022 is, hereby, allowed.

8. The appellant shall remain present before the Court, when the appeal is taken up for hearing, failing which his bail shall be cancelled.

(Rajesh Kumar, J.)

Amar/-