

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No.87 of 2019

Ajit Singh @ Pintu Singh Petitioner
Versus
The State of Jharkhand Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr. Jitendra Shankar Singh, Advocate
Mr. Randhir Kumar, Advocate
For the Respondent : Mr. Anjani Kumar Toppo, A.P.P.
For the Informant : Mr. Vijay Kumar Sharma, Advocate

10/19.02.2021 The present criminal appeal is taken up today through Video conferencing.

I.A No.4872 of 2020

The present interlocutory application has been filed on behalf of the informant-Jayanti Kumari for cancellation of bail granted to the appellant-Ajit Singh @ Pintu Singh by this Court while suspending the sentence vide order dated 17th May, 2019.

The present appeal has been filed against the judgment of conviction dated 9th January, 2019 and order of sentence dated 11th January, 2019 passed by the Additional Sessions Judge-II, Latehar in Session Trial No.192 of 2013, whereby the appellant was found guilty and accordingly convicted for the offence under Section 376(1) of the Indian Penal Code. Upon hearing on the point of sentence, the appellant was sentenced to undergo rigorous imprisonment for eight years along with fine of Rs.10,000/- for the said offence and in default of payment of fine, he was to further undergo rigorous imprisonment for six months.

The appellant preferred the present appeal along with an interlocutory application being I.A No.921 of 2019 which was heard on 17th May, 2019 and this Court suspended the sentence awarded to him during the pendency of the appeal and ordered to release him on bail.

The learned counsel appearing on behalf of the informant submits that the appellant, after release from the jail, has put some anti-social elements behind the informant who are using filthy language and use to tease her due to which she has left her house under fear. It is further submitted that she filed an application dated 16th January, 2020 before

the Superintendent of Police, Latehar to save her life. She has also filed an application on 11th February, 2020 before the Chief Minister of Jharkhand and before the Chairperson, State Women Commission, Jharkhand on 10th February, 2020 seeking protection but till date no action has been taken against the appellant. It is also submitted that the appellant has always been putting pressure upon the informant for withdrawing the criminal case otherwise she would face dire consequences.

Having heard the learned counsel for the informant and looking to the allegations levelled in the present interlocutory application, I do not find any strong evidence to cancel the bail of the appellant. The informant has alleged that at the instance of the appellant, some anti-social elements are teasing and threatening her as well as she is being pressurized to withdraw the criminal case. It has also been alleged that the appellant has also giving threat to the prosecution witnesses.

The learned counsel for the appellant has puts reliance on the judgment of the Hon'ble Supreme Court rendered in the case of ***Kanaka Rekha Naik Vs. Manoj Kumar Pradhan & Another*** reported in ***(2011) 4 SCC 596***. I have gone through the said judgment wherein the wife of the deceased had filed appeal before the Hon'ble Supreme Court challenging the order of the High Court whereby bail was granted to the appellant after suspending the sentence during pendency of the appeal. Their Lordships while rejecting the contention of the senior counsel for the respondent challenging the maintainability of appeal have held that the High Court in exercise of its power under Section 482 of the Code of Criminal Procedure can always pass order and can even hear an intervener while considering the application seeking suspension of the sentence pending the appeal. It is for the High Court to decide under which circumstances a person can be permitted to intervene while hearing the application seeking suspension of sentence filed by the convicted person. It is a matter of exercise of jurisdiction by the High Court. Nevertheless it cannot be said that the High Court has no jurisdiction to permit any intervener opposing the suspension of sentence and grant of bail by it in exercise of its power under Section 389 Cr.P.C. Their Lordships while setting aside the order of suspension and grant of

bail by the High Court, remitted the matter back to the High Court for deciding it afresh and have observed that the High Court ought to have taken into consideration the serious nature of allegations, the findings recorded by the trial court and the alleged involvement of the respondent in more than one case, for deciding as to whether it was a fit case for suspending the sentence awarded by the trial court and his release on bail during the pendency of the appeal. It has also been observed that the impugned order does not record any reason whatsoever except vague observation that nature of allegations have been taken into consideration. The order clearly reflects that the High Court was mainly impressed with the fact that the respondent was a sitting MLA.

However, in the present case, the facts and circumstances are entirely different. Here, the order of suspension and grant of bail to the petitioner has not been challenged by the informant on the ground of any infirmity/omission in the said order. Rather, the issue in the present case is (i) as to whether the informant's application for cancellation of bail granted to the appellant for suspending the sentence is maintainable or (ii) the allegations so levelled by the informant for cancellation of bail, constitutes separate cause of action.

I am of the view that all these allegations give rise to separate cause of action for which informant may report to the police for lodging of first informant report and for taking appropriate action against the appellant and other persons. The trial has already been concluded and as such there is no chance of tampering with the evidences by the present appellant. Though as per the informant, she has filed applications before the Superintendent of Police, Latehar, Chief Minister of Jharkhand and the Chairperson, State Women Commission, Jharkhand, however no such finding of any competent authority on the allegations levelled by the informant is available on record. So far inaction on the part of the Superintendent of Police, Latehar to take steps on the informant's application is concerned, she has the remedy to move before the competent court by filing a criminal complaint. On mere allegation of the informant, the bail of the appellant cannot be cancelled that too in absence of any factual finding with regard to the allegations levelled by the informant by the competent authority. Since the informant has not

been able to show any sufficient ground before this Court for cancellation of bail of the appellant granted vide order dated 17th May, 2019, I do not find any reason to entertain the present interlocutory application.

I.A No. 4872 of 2020 is, accordingly, dismissed.

(Rajesh Shankar, J.)

Rohit