

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J.) No. 273 of 2019

With

I.A. No. 2527 of 2019

Shital Soy @ Suleman Soy Appellant

Versus

1. The State of Jharkhand

2. Rojleen Bek

3. Mariyam Bek Opp. Parties

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellant : Mr. P.S. Dayal, Advocate

: Mr. Sanjay Kumar, Advocate

For the Opp. Parties : Mr. V. Prabhakar, Advocate

Mr. Rajesh Kumar Roy, Advocate

06/25.11.2019

I.A. No. 2527 of 2019

1. Heard Mr. P.S. Dayal, Advocate along with Mr. Sanjay Kumar, Advocate appearing on behalf of the appellant.

2. This criminal appeal has been filed against the judgment of Conviction and sentence dated 19.02.2019 and 22.02.2019 respectively, passed by learned Additional Judicial Commissioner-III-cum-F.T.C. (C.A.W.), Ranchi, passed in Sessions Trial No. - 64 of 2017 (T.R. No. 103/2018); (arising out of Argora P.S. Case No. 314 of 2016 ; G.R. No. 5362/2016); whereby and whereunder the appellant has been convicted under Section 376 of I.P.C. and sentenced to undergo Rigorous Imprisonment (R.I.) for 07 (seven) years and fine of Rs. 10,000/- (Rupees Ten Thousand) only and in default of payment of fine he is further sentenced to undergo Simple Imprisonment (S.I.) for six months for the offence under Section - 376 of the I.P.C. It has been further directed that entire amount of fine shall go to the victim by way of compensation.

3. I.A. No. 2527 of 2019 has been filed for suspension of sentence dated 22.02.2019 passed by learned Addl. J.C. III-cum-FTC (CAW) Ranchi passed in S.T. No. 64/17 (TR No. 103/18) (arising out of Argora P.S. Case No. 314/2016 G.R. No.

5362/16) and release the appellant on bail during the pendency of this appeal.

4. Learned counsel for the appellant submits that the appellant has enjoyed the privilege of bail during the trial. He further submits that there is material contradiction in the version of the informant in the First Information Report, statement under Section 164 and the evidence before the learned court below. He further submits that in the First Information Report, there is no allegation that any objectionable drink was administered to the victim, although such allegation has been levelled during trial.

5. The learned counsel for the appellant further submits that in the First Information Report the victim had disclosed her age as 17 years, which is not supported by her medical evidence and in the medical evidence, there is no sign of rape. He submits that the victim has further stated before the learned court below that she had affair with the accused.

6. The learned counsel for the appellant also submits that the appellant is ready to give certain amount by way of victim compensation to the mother of the informant as the informant who was the victim of the case, has already expired.

7. Counsel appearing on behalf of the mother of the victim submits that his client is present in the Court and she has instructed the counsel that the victim has already expired in the month of March, 2019.

8. After hearing the counsel for the parties and considering the material contradictions in the version of the victim, this Court is inclined to confirm the order of suspension of sentence and provisional bail granted to the appellant vide order dated 06.07.2019 which has been extended till 26.11.2019 vide order dated 03.09.2019 in connection with S.T. No. 64/17 (TR No. 103/18) (arising out of Argora P.S. Case No. 314/2016 G.R. No. 5362/16) subject to following conditions:

(i) The appellant would deposit an amount of Rs. 50,000/- by way of victim compensation before the learned court below in two installments. The first installment of Rs. 25,000/- is to be deposited latest by 20.12.2019 and the second installment of Rs. 25,000/- is to be deposited latest by 09.01.2020. The learned court below shall remit the amount in favour of mother of the victim after due identification. On account of non-deposit of any of the installments, the bail granted to the appellant shall stand cancelled and the learned court below shall take all steps to arrest the appellant.

(ii) The fine amount of Rs.10,000/- is also directed to be deposited before the learned court below.

9. I.A. No. 2527 of 2019 is hereby disposed of.

10. As the Lower Court's Records have already been received in this case, put up this case on 04.02.2020 under appropriate heading.

11. Let a copy of this order be communicated to the learned court below through 'FAX'.

(Anubha Rawat Choudhary, J.)

Pankaj