

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No. 150 of 2022

Indrapal Singh Sainy @ Nitu @ Inderpal Singh Saini
... .. **Appellant**

Versus

The State of Jharkhand **Respondent**

With

Criminal Appeal (D.B.) No. 284 of 2022

Shrikant Mahto @ Shreekanta Mahato @ Srikant Mahato
... .. **Appellant**

Versus

The State of Jharkhand **Respondent**

CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE AMBUJ NATH

For the Appellant : Mr. A.K. Kashyap, Sr. Advocate
(In Criminal Appeal (D.B.) No. 284 of 2022)

For the State : Mrs. Priya Shrestha, Spl. P.P.

For the Informant : Mr. Devesh Ajmani, Advocate

I.A. No. 4544 of 2022

In

Criminal Appeal (D.B.) No. 284 of 2022

06/25.08.2022 Heard Mr. A.K. Kashyap, learned Senior Counsel for the appellant and Mrs. Priya Shrestha, learned Spl. P.P. for the State assisted by Mr. Devesh Ajmani, learned counsel appearing for the informant.

This interlocutory application has been preferred by the appellant for grant of bail to him during the pendency of this appeal.

The appellant has been convicted for the offences u/s 376D of the Indian Penal Code and Section 6 of the POCSO Act and has been sentenced to undergo R.I. for 25 years along with a fine of Rs. 20,000/- for the offence u/s 376D of the Indian Penal Code.

It has been alleged that the daughter of the informant was handed over to Nanak Chand Seth about six years back for her maintenance and the informant used to meet her daughter occasionally. It has been alleged that she was informed by Nanak Chand Seth about five months ago that physical relationship was being established with her daughter by Shiv Kumar Mahto and on the request of Nanak Chand Seth the informant had visited her daughter and had asked

her about the incident who had subsequently stated that rape was being committed upon her by Shiv Kumar Mahto and Indrapal Saini for the last one year after giving threats to her. It has further been alleged apart from Shiv Kumar Mahto, Indrapal Saini and the present appellant several other persons had also committed rape upon her daughter.

Submission has been advanced by the learned Senior Counsel for the appellant that as per the medical report the age of the victim has been assessed to be about 19 years. It has further been submitted that in the 164 Cr.P.C. statement of the victim she has not named the appellant though in her evidence as P.W.3 she has taken the name of 22 persons who are said to have committed rape upon her. Learned Senior Counsel further submits that the medical report does not indicate any sign of rape having been found upon the person of the victim. It has also been submitted that though the act of rape was said to have been video-graphed but no device has been recovered by the Investigating Officer in support of such allegation. Mr. Kashyap, further adds that the appellant was all along on bail and in fact the First Information Report has been instituted as a fall out of a business rivalry between Nanak Chand Seth and Shiv Kumar Mahto and the daughter of the informant works as a maid servant in the house of Nanak Chand Seth.

Mr. Devesh Ajmani, learned counsel for the informant has opposed the prayer for bail of the appellant and has submitted that even the Police officials had not spared the victim and had subjected her to sexual assault and in fact the informant has already filed a writ application before this Court with a prayer for CBI inquiry which is still pending. It has further been submitted that the evidence of P.W.3 clearly reveals about the specific nature of allegation levelled against the appellant and the other accused persons in subjecting her to rape.

So far as the age of the victim is concerned, the same as per the medical report has been assessed to be about 19

years. The medical report further indicates that no evidence of sexual intercourse was found on the person of the victim. Though the appellant is named in the First Information Report as one of the several persons who had subjected the victim to rape but in her 164 Cr.P.C. statement the name of the appellant is conspicuously absent though in her evidence as P.W.3 the victim has again alleged against several accused persons of committing rape upon her. The defence has tried to establish the fact that on account of an enmity between Shiv Kumar Mahto and Nanak Chand Seth, Indrapal Saini and several other persons have been made an accused in the present case. The evidence of P.W.3 does prima facie appears to be tainted and on consideration of the entire facets of the case, we are inclined to admit the appellant on bail.

Accordingly, during the pendency of this appeal, the appellant (Shrikant Mahto @ Shreekanta Mahato @ Srikant Mahato) is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each, to the satisfaction of learned Special Judge (POCSO), East Singhbhum, Jamshedpur in connection with Special (POCSO) Case No. 174/2018, arising out of Mango P.S. Case No. 13/2018.

I.A. No. 4544 of 2022 stands allowed and disposed off.

(Rongon Mukhopadhyay, J.)

(Ambuj Nath, J.)