

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No. 288 of 2022

Shiv Kumar Mahto @ Gadadhar Mahto Appellant

Versus

The State of Jharkhand Respondent

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

For the Appellant : Mr. Pratyush Gupta, Advocate
For the Respondent : Mrs. Nehala Sharmin, A.P.P.
For the Informant : Mr. Devesh Ajmani, Advocate

3/28.11.2022 I. A. No. 8426 of 2022:

Heard Mr. Pratiush Gupta, learned counsel appearing for the appellant and Mrs. Nehala Sharmin, learned A.P.P. appearing for the State assisted by Mr. Devesh Ajmani, learned counsel 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 under Section 376 (D) of Indian Penal Code and Section 6 of the POCSO Act and has been sentenced to undergo rigorous imprisonment for 25 years along with a fine of Rs. 20,000/- for the offence under Section 376 (D) I.P.C.

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 the appellant 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 (the appellant) and Indrapal Saini for the last one year after giving threats to her. It has further been alleged that apart from Shrikant Mahto, Indrapal Saini and the present appellant several other persons had also committed rape upon her daughter.

It has been submitted by the learned counsel for the appellant that some of the co-convicts have been granted bail by this court in Criminal Appeal (DB) Nos. 150 of 2022 and 284 of 2022. Learned counsel further submits that the appellant has been implicated on account of the business rivalry between Nanak Chand Seth and the appellant and the daughter of the informant works as a maid servant in the house of Nanak Chand Seth.

Learned counsel for the informant has opposed the prayer for bail and has submitted that the case of the present appellant is on different footing to that of the co-convicts who have been granted bail by this court and on account of the fact that in the statement recorded under Section 164 Cr.P.C. of the victim, she has specifically named the present appellant.

It appears that the appellant was named in the FIR as well as in the statement under Section 164 Cr.P.C. and her evidence as P.W. 3. The victim has named several accused persons alleging commission of rape including the present appellant. It has been noted in the order granting bail of the co-convicts that the evidence of P.W. 3 prima-facie appears to be tainted.

On consideration of the aforesaid facts, we are inclined to grant bail to the appellant.

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

I. A. No. 8426 of 2022 stands allowed and disposed of.

(Rongon Mukhopadhyay, J)

(Ambuj Nath, J.)