

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 394 of 2019

Shankar Sao Appellant
Versus
The State of Jharkhand Respondent

CORAM: HON'BLE MR. JUSTICE ANANT BIJAY SINGH

For the Appellant : Mr. Rakesh Ranjan, Adv.
For the State : Mr. Vikash Kishore, APP

06/Dated: 24.07.2019
I.A. No.3539 of 2019

This interlocutory application has been filed on behalf of the appellant under Sections 389 (1) of the Cr.P.C. for suspension of sentence, in connection with the order/judgment of conviction dated 04.02.2019, passed by learned District & Additional Session Judge-II, Latehar in Sessions Trial No. 177 of 2011, arising out of latehar P.S. Case No. 100 of 2011, G.R.No.558 of 2011 and whereby and whereunder the appellant has been convicted for the offence under Sections 376 of the I.P.C. and sentenced him to undergo R.I. for 7 years for the offences under Section 366 of the IPC and to pay a fine of Rs. 5,000/- in each section and in default of payment of fine amount, and further sentenced him to undergo R.I. for 6 months in each section. Further it has been ordered that the victim will be deposited Rs.8000/- out of fine amount so deposited by the accused and since the compensation is not adequate, the matter was referred to District Legal Services Authority, Latehar in light of Section 357A Cr.P.C. and under Jharkhand Victim Compensation Scheme.

The appeal was filed on 04.04.2019 and on 16.05.2019, the appeal was admitted for hearing and L.C.R. was called for and learned Vikash Kishore accepts the notice on behalf of the State.

It appears that under order dated 27.06.2019, the LCR was received, but it was xerox copy of the original L.C.R., so original L.C.R. was called for.

Now the original L.C.R. has been received.

I.A. No. 3539 of 2019 filed under Section 389(1) of the Cr.P.C. on behalf of the appellant for suspension of sentence and for admitting the appellant on bail has been pressed.

Learned counsel for the appellant while referring to evidence of P.W.3, victim submitted that the age of victim is 17 years and she admitted that she along with appellant staying in Kurukshetra, Haryana. The statement of victim girl was recorded under Section 164 Cr.P.C before the learned Magistrate, which was exhibited as Exhibit-3, in which she has stated that her date of birth is 13.06.1995 and the occurrence is of 19.09.2011. So it was submitted that admittedly on the date of occurrence, the victim was major and there is contradiction in the statement regarding date of birth and the appellant as well as victim is major. It is further submitted that appellant is in jail custody since 26.09.2011 to 12.09.2012, thereafter from the date of conviction i.e. from 04.02.2019.

On the other hand learned counsel for the State has opposed the prayer for bail.

Considering the facts and circumstances of the case, I, hereby, suspend the sentence of the appellant awarded by the learned District & Additional Sessions Judge-II, Latehar in Sessions Trial No. 177 of 2011, arising out of Latehar P.S. Case No.100 of 2011, G.R.No. 558 of 2011. During pendency of this criminal appeal, the above named appellant is directed to be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five thousand) with two sureties of the like amount each to the satisfaction of learned District & Additional Sessions Judge-II, Latehar in Sessions Trial No. 177 of 2011, arising out of Latehar P.S. Case No.100 of 2011, G.R.No. 558 of 2011, subject to the following conditions:-

(i) On the date of furnishing bail bonds, appellant shall furnish photocopy of Aadhar Card and cell number before the trial Court.

(ii) Appellant shall deposit Rs.5,000/- i.e. half of the fine amount before the trial court within four weeks after his release from the judicial custody.

(iii) Further trial court is directed to issue notice to the P.W.-3 victim and on her appearance, the trial court will release the aforesaid amount in her favor after proper verification.

Let a copy of this order be communicated to the concerned trial court through FAX and also handed over learned counsel for the appellant.

Accordingly, I.A. No. 3539 of 2019 is hereby allowed.

(Anant Bijay Singh, J.)

Amardeep/