

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (SJ) No. 328 of 2022

Binita Kumari Appellant
Versus
The State of Jharkhand through Vigilance Respondent

CORAM: HON'BLE MR. JUSTICE NAVNEET KUMAR

For the Appellant : Mr. Kaushik Sarkhel, Advocate
For the Vigilance : Mr. Veenit Kr. Vashitha, Spl. P.P.

Order No. 09: Dated: 14th February, 2023

Heard, learned counsel appearing on behalf of the appellant and learned Spl.P.P. appearing on behalf of the Vigilance.

Learned counsel appearing on behalf of the appellant submitted that one I.A. No.349 of 2023 has been filed with a prayer to enlarge the appellant on bail during pending of this appeal.

It has been submitted that this appeal has already been admitted by this Court against the judgment of conviction and order of sentence dated 27.04.2022 passed by the learned Special Judge, Vigilance (A.C.B), Hazaribagh whereby and whereunder the appellant was convicted for the offence under Sections 7 and 13 (2) read with Section 13(1)(d) of the Prevention of Corruption Act and appellant was sentenced to undergo R.I. for 3 years for the offence punishable under Section 7 of P.C. Act as applicable in this case before Amendment Act of 1 of 2014 and a fine of Rs.5,000/-. The appellant was further sentenced to undergo R.I. for 4 years and fine of Rs.5,000/- for the offence punishable under Section 13(2) r/w Section 13(1)(d) of Prevention of Corruption Act as applicable on the date of offence and in default of payment of each fine, the appellant was directed to undergo further S.I. for three months for each default.

It has been submitted on behalf of the appellant that appellant has been found guilty for the charge of accepting the bribe of Rs.5,000/- on the spot.

Further, it has been submitted on behalf of the appellant that it is clear cut case of false trapping in view of the documentary proof i.e.

Exhibit-D by which this appellant being the C.D.P.O. has given show-cause and recommended for removal from the post of Anganwari Sewika to the wife of the complainant and that's why in retaliation the husband of the said Anganwari Sewika, Priyanka Kumari (complainant) has instituted the present false case in which the appellant has been falsely implicated.

Further, the learned counsel has pointed out that the sanctioning authority has not been examined in this case and therefore, the sanction order has not been proved as per the prescribed procedure.

Further, it has also come into the evidence of the complainant (P.W.-2) that his wife was removed from the post of Anganwari Sewika just next day of alleged trap and therefore, the defence of the appellant that because of the removal of his wife this appellant has been falsely trapped in this case cannot be ruled out.

Further, it is also pointed out that in the alleged trap money has been recovered from the table under the file and not from the physical possession of the appellant.

Further, it has also pointed out that this appellant has already remained in jail for about one year and therefore, it is urged on behalf of the appellant that let the appellant be enlarged on bail during pending of this appeal. It has also been pointed out on behalf of appellant that this appeal is not likely to be heard in near future.

On the other hand, the learned Sr. Spl. P.P. appearing on behalf of the Vigilance opposed the contentions raised on behalf of the appellant and submitted that P.W.-2 (complainant) has fully supported the case of the prosecution along with P.W.-7 and other prosecution witnesses who were examined on behalf of the prosecution and therefore, this appellant does not deserve to be enlarged on bail.

Having heard both the parties, perused the record of this case.

In the light of the convincing and forceful submission advanced

on behalf of the appellant, this Court finds that it is just and fair in the interest of justice to enlarge the appellant on bail during pending of this appeal.

Accordingly, the appellant is directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousands Only) with two sureties of the like amount each, to the satisfaction of learned Special Judge, Vigilance (A.C.B.), Hazaribagh in connection with Special Vigilance Case No.26 of 2012 subject to condition that the entire fine amount as awarded by the learned court below is various heads/counts shall be deposited in the court below without being prejudice to the right of her defence.

The original Lower Court Records has been received.

Let it be posted under the heading "For Hearing" in its seriatim.

I.A. No.8963 of 2022, I.A. No.349 of 2023 and I.A. No.4006 of 2022 get disposed of accordingly.

(Navneet Kumar, J.)

R.S./-