

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (DB) No. 1077 of 2024

With

I.A. No. 8160 of 2024

Maksud @ Maksud Ansari @ Maqsood Ansari, aged about 45 years, son of Late Nabi Mian, resident of Village-Lahangia, P.O. Chunglo, P.S. Jamua, District-Giridih.

... .. Appellant

Versus

The State of Jharkhand

... .. Respondent

**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE NAVNEET KUMAR**

For the Appellant : Mr. Ashim Kr. Sahani, Advocate

For the Respondent : Mr. V.S. Sahay, A.P.P.

06/Dated: 15th October, 2024

I.A. No. 8160 of 2024:

1. The instant interlocutory application has been filed under Section 430(1) of the Bharatiya Nagrik Suraksha Sanhita, 2023 for keeping the sentence in abeyance in connection with the judgment of conviction dated 12.06.2024 and order of sentence dated 21.06.2024 passed by the learned Sessions Judge, Giridih in connection with Sessions Trial No. 69 of 2021 arising out of Dhanwar P.S. Case No. 282 of 2020 corresponding to G.R. No. 144 of 2021, whereby and whereunder, the appellant has been convicted and sentenced maximum to undergo rigorous imprisonment for life along with fine of Rs.30,000/-.
2. Mr. Ashim Kr. Sahani, learned counsel for the appellant has submitted by referring to the prosecution version as available on record that the conviction is based upon the circumstantial evidence on the basis of the last seen theory.
3. It has been contended that the applicability of Section 27 of the Evidence Act, so far as the present appellant is concerned, is not applicable reason being that the appellant had been arrested on 19.09.2020 as per the arrest memo and thereafter his statement

was recorded but it is also evident from the prosecution version that the recovery of two knives and burned clothes has been made on the disclosure made by the co-convict, namely, Ibrahim Ansari and based upon that the seizure memo was prepared on 12.09.2020.

4. It has further been contended that the seizure memo since was prepared on 12.09.2020 and as such, it cannot be disputed that the co-convict, namely, Ibrahim Ansari, had been arrested prior to 12.09.2020.
5. Learned counsel for the appellant, on the aforesaid premise, has submitted that the present interlocutory application deserves to be allowed by keeping the sentence in abeyance.
6. While on the other hand, Mr. V.S. Sahay, learned Additional Public Prosecutor appearing for the respondent-State of Jharkhand has vehemently opposed the prayer made in the present interlocutory application filed for keeping the sentence in abeyance by referring to impugned judgment of conviction and various paragraphs of the lower court record.
7. It has been submitted that on the disclosure made in the confessional statement of Ibrahim Ansari, co-convict, two knives used in the said crime and burned clothes have been recovered and he has also taken the name of the present appellant involved in the commission of crime.

It has also been disclosed in the confessional statement of Ibrahim Ansari that the deceased, namely, Satyendra Nath Mishra was having illicit relationship with the wife of the present appellant, as such, it cannot be said that the present appellant was not having any motive for the commission of crime.

8. Learned Additional Public Prosecutor appearing for the respondent-State of Jharkhand, based upon the aforesaid premise has submitted that the present interlocutory application is fit to be rejected.

9. Upon this, Mr. Ashim Kr. Sahani, learned counsel for the appellant has submitted that he does not intend to press the instant interlocutory application.
10. Accordingly, the instant interlocutory application being I.A. No. 8160 of 2024 is dismissed as not pressed, as such, disposed of.

(Sujit Narayan Prasad, J.)

(Navneet Kumar, J.)

Saurabh/-