

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 1513 of 2020

Arising out of P.S. Case No.-27 Year-2013 Thana- MAHILA P.S. District- Muzaffarpur

Lakshmi Devi, wife of Sri Satendra jha Resident of Village - Maheshwara,
Police Station - Gaighat, District - Muzaffarpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rabindra Kumar Priyadarshi, Advocate
For the Respondent/s : Mr. Spl. PP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 28-09-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the appellant and learned Spl. PP for the respondent-State.

Since the court proceeding in physical mode is non-functional, due to present pandemic, COVID-19, the matter is listed with defects.

Learned counsel for the appellant undertakes to remove the defects within three weeks of resumption of court proceeding in physical mode. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the bench.

The present appeal has been preferred on behalf of the appellant for setting aside the order dated 07.12.2018 passed by



learned Additional District Judge-I-cum-Special Judge, POCSO Act, Muzaffarpur, whereby the appellant's prayer for bail in connection with Mahila (Muzaffarpur) P.S. Case No. 27 of 2013 registered for the offences punishable under Sections 376C and 120(B) of the Indian Penal Code, Sections 4, 6, 8, 10, 17 and 18 of the POCSO Act and Sections 3(2)(v)(s)/3(1)(xi) of SC/ST (Prevention of Atrocities) Act, has been rejected. The appellant is in custody since 07.12.2018.

The appellant has renewed the prayer for bail which was rejected vide order dated 21.05.2019 passed in Cr. APP (SJ) No. 966 of 2019 with an observation to conclude the trial as expeditiously as possible, preferably within nine months. Since the trial has not concluded and there is no likelihood of conclusion of trial in near future in view of pandemic of COVID-19, the prayer for bail has been renewed by the appellant.

The prosecution case, as per the written report of Deputy Secretary, Bihar State Women Commission submitted to the Station House Officer, Muzaffarpur Mahila P.S., is to the effect that during inspection of Raksha Grih, Muzaffarpur, the inmates namely Pinki Kumari and Reena Kumari alleged that they are forced to go outside in the night for the purposes of



flesh trade by the guard Suman Devi and Kiran Devi and on protest being made they were not provided food. Earlier, some of the girls escaped away from the After Care Home. The appellant, Lakshmi Devi was also working as a guard who was alleged to have involved in allowing the girls to go outside from After Care Home.

It is submitted by learned counsel for the appellant that there is specific accusation against co-accused Kiran Devi, Mamta Devi and Suman Devi who have been granted bail by Co-ordinate benches of this Court vide order dated 01.11.2018 passed in Cr. APP (SJ) No. 4306 of 2018, vide order dated 04.03.2014 passed in Cr. Misc. No. 6614 of 2014, vide order dated 14.03.2014 passed in Cr. Misc. No. 6614 of 2014. Moreover, Pinki Kumari and Reena Kumari have not made any accusation against the appellant and there is no likelihood of trial being concluded in near future. A statement has been made in paragraph no. 3 of the petition that the appellant has no criminal antecedent.

Learned Spl. PP for the State submits that the appellant was the guard when the girls escaped from the After Care Home.

Considering the fact that there is no specific



accusation against the appellant whereas the specific accusation is against Kiran Devi who has been granted bail by a Co-ordinate bench of this Court, coupled with the fact that appellant is not having criminal antecedent, the order dated 07.12.2018 passed by learned Additional District Judge-I-cum-Special Judge, POCSO Act, Muzaffarpur is, hereby, set aside and the appellant above named is directed to be released on bail for a period of three months for the present on furnishing one surety to the satisfaction of the learned Additional District Judge-I-cum-Special Judge, POCSO Act, Muzaffarpur in connection with Mahila (Muzaffarpur) P.S. Case No. 27 of 2013.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the appellant which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the appellant will be confirmed by the learned Court below within three months on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties, including one surety given at the time of provisional



bail, of the like amount each to the satisfaction of the learned Additional District Judge-I-cum-Special Judge, POCSO Act, Muzaffarpur in connection with Mahila (Muzaffarpur) P.S. Case No. 27 of 2013.

The learned Court below is at liberty to further extend the period of provisional bail if the lock down is not over in next three months.

Accordingly, the appeal is allowed.

(Dinesh Kumar Singh, J)

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