

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1430 of 2020

Arising Out of PS. Case No.-169 Year-2019 Thana- RAJPUR District- Rohtas

AAZAD KHAN S/o Habibulla Khan Resident of Village- Ramudih, P.S.-
Rajpur, Distt- Rohtas.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ashok Kumar Pandey
For the Respondent/s : Mr.A.G

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 14-09-2020 The court proceeding has been conducted through
virtual mode.

Since the court proceeding is not functional in
physical mode, due to present Pandemic, Covid -19, the present
appeal has been listed with defects.

Learned counsel for the appellant undertakes to
remove the defect(s) within a period of four weeks of
resumption of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken
period, the office will place the matter again.

Heard learned counsel for the appellant and the State.

The present appeal has been preferred against the
order dated 28.02.2020, passed by learned 1st Additional District
and Sessions Judge, Rohtas at Sasaram in connection with



Rajpur P.S. Case No. 169 of 2019 (POCSO Case No. 119 of 2019), whereby the prayer for bail of the appellant has been rejected.

The appellant is languishing in custody since 16.12.2019, in a case registered for the offences punishable under Sections 341, 323, 354A, 354B and 376/511/34 of the IPC, Sections 3(i)(w)(ii) of the SC/ST (Prevention of Atrocities) Act and Sections 8 and 12 of the Protection of Children from Sexual Offences Act.

The prosecution case, as per the written report of Paro Kumari, submitted to the Station House Officer, Rajpur Police Station is to the effect that on 15.12.2019 at about 6 A.M., the informant went outside to ease out with her grand-mother, in the meantime, all the FIR named accused persons including the appellant took the informant to the house of co-accused Iliyas Ansari where they tried to outrage her modesty and when the alarm was raised by the grand-mother of the informant, the local people gathered there and thereafter all the accused persons escaped from the scene.

Learned counsel for the appellant submits that even assuming the accusation to be true, the accusation at best under Section 354 IPC is made out. The accusation is omnibus and



general against all the accused persons including the appellant. It is further submitted that there is no injury report of the informant on record and there is serious inconsistency between the statement of the informant, recorded under Section 164 Cr.P.C. and the written report submitted by her. Moreover, the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the appellant is not having any criminal antecedent.

Learned APP for the State submits that the appellant is named in the FIR with specific accusation.

Considering the fact that the investigation has already been concluded, the prosecution case is not being supported by any medical report and the accusation against the appellant is omnibus and general, coupled with statement made in paragraph no.3 of the petition to the effect that the appellant is not having any criminal antecedent, the order dated 28.02.2020, passed by learned 1st Additional District and Sessions Judge, Rohtas at Sasaram in connection with Rajpur P.S. Case No. 169 of 2019 (POCSO Case No. 119 of 2019) is hereby quashed and the appellant is directed to be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned 1st



Additional District and Sessions Judge, Rohtas at Sasaram, in connection with Rajpur P.S. Case No. 169 of 2019 (POCSO Case No. 119 of 2019).

However, in view of the present pandemic COVID- 19, it will be open for the learned Court below to accept the bail bond on 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 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 bond of Rs.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned 1st Additional District and Sessions Judge, Rohtas at Sasaram, in connection with Rajpur P.S. Case No. 169 of 2019 (POCSO Case No. 119 of 2019).

The learned Court below will be at liberty to extend the period of provisional bail further if the court proceeding in



physical mode will not resume in next three months.

The learned court below will be at liberty to cancel the bail bonds of the appellant if he defaults for three consecutive occasions during trial.

Accordingly, the present appeal is allowed and disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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