

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1469 of 2020

Arising Out of PS. Case No.-6 Year-2020 Thana- MAHILA P.S. District- Rohtas

Sushil Kumar @ Raju Son of Krishna Bhagat Resident of Village/Mohalla-D
R S Colony Jakki Bigha, Police Station-Dehri, District-Rohtas at Sasaram.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Vipin Kumar Singh
For the Respondent/s : Mr. A.G.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 17-09-2020 The matter has been taken up through virtual

Court proceeding.

Since the Court proceeding is non-functional in
physical mode 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 proceedings.

In case of non removal of the defects within
undertaken period, the office shall place the matter
before the bench.

Heard learned counsel for the appellant and



learned Special P.P. for the respondent-State.

The present appeal has been preferred on behalf of the appellant for setting aside the order dated 20.05.2020 passed by learned Additional District & Sessions Judge, 1st, Rohtas at Sasaram in Reg. No. 16 of 2020, whereby the appellant's prayer for bail in connection with Dehri Mahila P.S. Case No. 06 of 2020 registered for the offences punishable under Sections 341, 323, 504, 506, 313, 498(A)/34 of the Indian Penal Code and Sections 3(1)(r)(s) of SC/ST (Prevention of Atrocities) Act and Section 3 /4 of the Dowry Prohibition Act has been rejected.

The prosecution case, as per the written report of Jyoti Kumari submitted to the Station House Officer of Dehri Mahila Police Station, is to the effect that the informant performed love marriage with the appellant on 20.02.2019. For nine months, the informant was kept with dignity and honour and in the meantime, the informant conceived. However, the appellant provided



her a tablet for termination of the pregnancy, in the name of a vitamin tablet, as a result of which, the pregnancy of the informant got terminated. It is alleged that on 08.12.2019, the appellant along with other F.I.R named co-accused persons came and burnt left hand of the informant by a hot iron rod and threatened her to pursue her father to transfer all his property in his name. It is further alleged that the appellant always used to abuse her by calling her caste name and demand dowry.

It is submitted by learned counsel for the appellant that accusation of demanding dowry appears to be unreasonable since the informant performed love marriage with the appellant. There is no medical report to corroborate the accusation of termination of the pregnancy by the petitioner or the injuries caused to the informant. The impugned order also does not suggest that any medical report has been brought on record. Moreover, the investigation has been concluded and on



conclusion of the investigation, no case under the SC/ST (PoA) act has been made out against the appellant.

A statement has been made in para 3 of the petition that appellant is not having any criminal antecedent and the appellant is in custody since 15.03.2020.

Learned A.P.P submits that accusation is specific against the appellant of torture and getting the pregnancy terminated.

Considering the fact that accusation of either assault or termination of pregnancy of the informant is not being corroborated by any medical opinion, the investigation has been concluded, coupled with the fact that the appellant is not having any criminal antecedent, the order dated 20.05.2020 passed in Reg. No. 16 of 2020 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 &



Sessions Judge, 1st, Rohtas at Sasaram in connection with Dehri Mahila Thana P.S. Case No. 06 of 2020.

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 bond 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 & Sessions Judge, 1st, Rohtas at Sasaram in connection with Dehri Mahila Thana P.S. Case No. 06 of 2020.

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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