

IN THE HIGH COURT OF JHARKHAND AT RANCHI

B. A. No. 356 of 2020

Rajesh Kumar Petitioner
Versus
1. The State of Jharkhand
2. Khushi Arora Opp. Parties

CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

For the Petitioner : Mr. R. S. P. Sinha, Sr. Advocate
For the Opp. Party : Mr. Shiv Shankar, A.P.P.

05/24.06.2020 Heard Mr. R. S. P. Sinha, learned senior counsel for the petitioner and Mr. Shiv Shankar, learned A.P.P. for the State.

Petitioner has been made accused in connection with Chandil P.S. Case No. 106 of 2019, corresponding to POCSO Case No. 52 of 2019.

It has been alleged that the informant had gone to Marine Drive with Arshdeep on his Fortuner vehicle. The said Arshdeep disclosed that the vehicle is getting stalled. Several boys had arrived in the meantime and dragged the informant into the bushes and committed rape upon her. Thereafter, they took the informant to Tatanagar Junction where she was got boarded in an auto and was threatened not to disclose about the incident.

Mr. R. S. P. Sinha, learned senior counsel for the petitioner while referring to Paragraph - 149 of the case diary submits that although it is a case of gang rape but there is no definite opinion about the rape which has been given by the Doctor. Learned senior counsel further submits that the victim is a major aged about nineteen years and even from the Test Identification Chart, there is no allegation that it was the petitioner who had also subjected the victim to rape. Learned senior counsel submits that the petitioner is in custody since 29.08.2019 and in view of the fact that there was no definite opinion of rape given by the Doctor, the petitioner deserves to be release on bail.

Learned A.P.P. has opposed the prayer for bail of the petitioner.

The bail application of the similarly situated co-accused namely Sadhu @ Brindaban Kumhar has been rejected by this Court in B.A. No. 686 of 2020. In the 164 CrPC statement of the victim the occurrence has been supported. From the TIP Chart, it appears that the petitioner

was identified as the person who was teasing and assaulting the informant.

In view of such circumstances the finding of the Medical Board pales into insignificance. In view of the role played by the petitioner which has been ascertained in course of his identification apart from the consistent evidence given by the informant in the 164 CrPC statement, I am not inclined to grant bail to the petitioner. Accordingly, the prayer for bail of the petitioner is rejected with a direction to the learned trial court to expedite the trial.

(Rongon Mukhopadhyay, J.)