

IN THE HIGH COURT OF JHARKHAND AT RANCHI

B.A. No. 8192 of 2021

Dr. Rajesh Mohanty ... Petitioner

Versus

The State of Jharkhand ... Opposite Party

CORAM: HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

Through Video Conferencing

For the Petitioner : Mr. Rajendra Krishna, Advocate

For the State : Mrs. Priya Shrestha, Spl. P.P.

Order No. 03

Dated 07th September, 2021

Heard the learned counsel appearing for the respective parties.

Defects, as pointed out by the office, are ignored.

The petitioner had moved for bail before the learned Additional Sessions Judge-IV, East Singhbhum in B.P. No. 550 of 2021 which however was dismissed as not maintainable.

Mr. Rajendra Krishna learned counsel for the petitioner submits that the learned Judicial Magistrate had decided the bail application on merits, but the learned Additional Sessions Judge-IV, East Singhbhum has considered the bail application as being not maintainable on his understanding that the accused cannot be treated to be in the judicial custody to bring his case within the ambit of Section 439 Cr.P.C. Mr. Krishna learned counsel for the petitioner has sent through email the order dated 02.07.2021 passed by the learned SDJM, Jamshedpur, wherein the petitioner was remanded to judicial custody. The order passed by the learned Additional Sessions Judge-IV, East Singhbhum in B.P. No. 550 of 2021 appears to have been passed prior to the date of remand which is 02.07.2021. Subsequently by virtue of an order passed in W.P.(Cr.) No. 181 of 2021 direction has been given to the Deputy Commissioner, East Singhbhum and the Senior Superintendent of Police, East Singhbhum to make arrangements for shifting the petitioner to Rabindra Nath Tagore International Institute of Cardiac Science situated at Mukundpur in Kolkata with adequate medical facility as well as the required escorts in accordance with the norms of the State of Jharkhand. The said order was passed in a writ application preferred by the mother of the petitioner. Mr. Krishna learned counsel for the petitioner submits that the petitioner was operated upon in the said

2.

Institute and has subsequently been shifted to RIMS, Ranchi where he is now recuperating.

Since the case of the petitioner has not been decided on merits by the learned Additional Sessions Judge-IV, East Singhbhum in B.P. 550 of 2021, it would not be proper for this Court to decide the issue on merits as it has first to be decided by the learned court as indicated above.

In such view of the matter, therefore, this application stands disposed of with a liberty to the petitioner to file a fresh application for bail before the learned Sessions Judge, East Singhbhum at Jamshedpur who shall either himself consider the bail application or may transfer the case to some other Court for consideration of the bail application of the petitioner. If such bail application is filed by the petitioner, the learned Sessions Judge and/ or the transferee Court may expeditiously dispose of the matter, preferably on the same day.

This applications stands disposed off with the aforementioned observations.

(RONGON MUKHOPADHYAY,J.)