

IN THE HIGH COURT OF JHARKHAND AT RANCHI  
Cr. Appeal (DB) No. 202 of 2020

Md. Fraj Ansari @ Md. Fraj Shams --- --- Appellant  
Versus  
The State of Jharkhand --- --- Respondent

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CORAM: **Hon'ble Mr. Justice Aparesh Kumar Singh**  
**Hon'ble Mrs. Justice Anubha Rawat Choudhary**  
Through: Video Conferencing

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For the Appellant : Mr. K.S. Nanda, Advocate  
For the State : Mrs. Vandana Bharti, A.P.P.  
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**I.A. No.4129 of 2021**

**03/07.09.2021** Heard Mr. K.S. Nanda, learned counsel appearing on behalf of the appellant and Mrs. Vandana Bharti, learned counsel appearing on behalf of the State.

Learned counsel for the appellant submits that the present case is a case where the victim girl had eloped with the appellant. He refers to the statement of the victim recorded under Section 164 of Cr.P.C. where she herself had stated that she had eloped with the appellant and had stated that she was 18 years of age. Learned counsel further submits that after recording her statement under Section 164 Cr.P.C. she refused to go with her parents and then she was sent to Women's Probation Home where she stayed for three months and from there she had written letters to the learned court below as well as to the Investigating Officer of the case not to take action against the appellant. He submits that in spite of all this, the appellant has been convicted on account of the fact that the victim retracted during her evidence before the learned court below. Learned counsel has also submitted that the victim in her evidence at para-9 has admitted 3 photographs shown to her during her cross-examination where she got photographs clicked with the appellant. Learned counsel has submitted that the Doctor has found no injury and therefore there was no sign of rape. Learned counsel has also submitted that the appellant has remained in custody for a period of 3 months during trial and thereafter he is in custody since 12.02.2020 and accordingly the appellant has remained in custody for about 2 years.

Learned counsel for the State, on the other hand, has opposed the prayer and has submitted that as per the F.I.R. the victim was 17 years of age

and during examination by the Medical Board, her age was found to be 16-17 years. However, she does not dispute the fact that as per her statement recorded under Section 164 Cr.P.C., she had herself stated that she had eloped with the appellant.

After hearing learned counsel for the parties and considering the aforesaid facts and circumstances of the case, particularly the statement which was immediately recorded under Section 164 of Cr.P.C. and also the cross-examination of the victim with particular reference to para-9 where photograph of the victim with the appellant was exhibited to her, this Court is of the view that the case appears to be a case of love affair between the appellant and the victim. In such circumstances, this Court is inclined to grant the privilege of suspension of sentence to the appellant during pendency of the appeal. Accordingly, appellant is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount, each, to the satisfaction of learned court below. The appellant as well as his bailors would furnish their mobile number and attested copy of Aadhaar Card at the time of furnishing bail bonds which they shall not change without prior permission of the learned court below. I.A. No.4129 of 2021 stands disposed of.

Let this order be communicated to the learned court below through FAX.

*(Aparesh Kumar Singh, J)*

*(Anubha Rawat Choudhary, J)*

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