
(2020) 09 JH CK 0169
In the Jharkhand High Court
Case No : Bail Application No. 6719 Of 2020

Dinesh Saw

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 22-09-2020

Acts Referred:

Indian Penal Code, 1860 — Section 376
Information Technology Act, 2000 — Section 67

Citation : (2020) 09 JH CK 0169

Hon'ble Judges : Kailash Prasad Deo, J

Bench : Single Bench

Advocate : Hemant Sikarwar, Sidhant Sinha, Sardhu Mahto

Judgement

Learned counsel for the petitioner has submitted that though there are defect nos.9(i) to 9(iv) in the bail application as pointed out by the stamp reporter but he has filed an undertaking that he shall remove the defects within 30 days after the physical court starts and the bail application may be heard as it is a regular bail application in which petitioner is in custody since 29.05.2020.

Considering the same, this Court is inclined to hear the bail application on merits but with condition that petitioner shall remove the defects within 30 days after the physical court starts.

Joint Registrar (Judicial) is directed to ensure the compliance of this order after the physical court starts so as to remove the defects. Heard, learned counsel, Mr. Hemant Sikarwar assisted by learned counsel for the petitioner, Mr. Sidhant Sinha and learned counsel for the State, Mr. Sardhu Mahto.

Learned counsel for the petitioner has submitted that petitioner has prayed for grant of regular bail in connection with Bishnugarh P.S. Case No.95 of 2020, for the offence registered under Section 376 IPC & Section 67 of I.T. Act.

Learned counsel for the petitioner has submitted that as per FIR, the informant has alleged that her husband has gone out of house to earn livelihood and she

was staying with her daughter aged about three years. It is alleged that petitioner came to her house for some furniture work and develop friendly relation and assured the informant that how she could live as her husband gone out and on pretext of marriage physical relationship was established and subsequently some obscene photographs of the informant were collected by the petitioner to blackmail her.

Learned counsel for the petitioner has thus submitted that no case under Section 376 IPC is made out as the informant herself is a major lady and she develop friendly relation with the petitioner and thereafter they entered into sexual relationship and nothing has been recovered by the Investigating Officer so as to make a case under Section 67 I.T. Act.

Learned counsel for the petitioner has further submitted that petitioner is in custody since 29.05.2020, as such, petitioner may be enlarged on regular bail.

Learned counsel for the State has opposed the prayer for bail and has submitted that there is direct allegation of committing rape against the petitioner, as such, petitioner may not be enlarged on regular bail.

After hearing, learned counsel for the parties and perusing the materials brought on record and looking upon the fact and circumstances of the case as the informant has claimed that she developed friendly relation and considering the period of custody of the petitioner i.e. 29.05.2020, this Court is inclined to grant Bail to the petitioner. Accordingly, petitioner (Dinesh Saw), is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned J.M. 1st Class, Hazaribag in connection with Bishnugarh P.S. Case No.95 of 2020 on the following conditions:-

(i) One of the bailors shall be deponent/parivikar of the present case namely, Md. Asfak, S/o Md. Iqbal, R/o Karbala Tank Road, Imarat Nagar, P.O.- G.P.O, P.S.- Kotwali, District- Ranchi (Jharkhand), who has furnished photocopy of his UID Card bearing No.7120 0749 9069 before this Court in the bail application.

Office is directed to send photo copy of the UID Card bearing No. 7120 0749 9069 of deponent along with this order to the court below so as to verify the authenticity of the bailor.

(ii) Another bailor shall be wife of the petitioner and if the petitioner is unmarried he shall file an affidavit that he is unmarried and then another bailor shall be father/mother/son/sister/brother.

(iii) The Jail Authority shall release the petitioner only after his medical check- up.

(iv) The Civil Surgeon, Hazaribag is directed to medically examine the petitioner at the time of his release and if require, petitioner shall be taken for quarantine, but if no such requirement is there, he shall be released forthwith, if not wanted in any other case.

(v) Petitioner shall also comply with all the guidelines issued by the Government to meet the challenges of Covid-19, as the country is passing through Pandemic of Covid-19.