
(2016) 08 JH CK 0015

In the Jharkhand High Court

Case No : Cr. Appeal (D.B.) No. 94 of 2015 with I.A. No. 3020 of 2016

Jannat Ansari

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 02-08-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 389

Citation : (2016) 4 JCR 774

Hon'ble Judges : Mr. Pradip Kumar Mohanty and Mr. D.N. Upadhyay, JJ.

Bench : Division Bench

Advocate : Mr. Binod Kumar, Advocate, for the Informant; M/s. B.M. Tripathy and P.P.N. Roy, Senior Advocates, for the Appellants; Mrs. Vandana Bharti, A.P.P, for the State

Final Decision : Disposed Off

Judgement

I.A. No. 3020 of 2016 in Cr. A. (D.B.) No. 94/15

1. Heard Mr. B.M. Tripathy, learned senior counsel for the appellants, Mrs. Vandana Bharti, learned Addl. P.P. appearing for the State, and Mr. Binod Kumar, learned counsel appearing for the informant, on the Interlocutory Application bearing I.A. No. 3020 of 2016, wherein prayer has been made to enlarge the appellants on bail.

2. At the very outset, Mr. Tripathy, learned senior counsel, seeks permission to withdraw the prayer for bail of appellant no. 2- Azad Ansari with a liberty to move the same after six months.

3. Reserving the said liberty, prayer for bail of appellant no. 2- Azad Ansari is permitted to be withdrawn.

4. So far as prayer for bail of appellant nos. 1, 3, 4, 5 and 6 is concerned, Mr. Tripathy, learned senior counsel, submitted that appellant nos. 1, 3, 4, 5 and 6 were all along on bail during trial and they never misused the liberty granted by

the Court and after passing of judgment of conviction and order of sentence, they were remanded back to jail and since then they are languishing in jail custody. It is further submitted that there is no overt act against the appellants and the only allegation is that they assaulted the injured. It is further submitted that this appeal is not likely to be heard within five years and therefore, these appellants may be released on bail.

5. Mr. Binod Kumar, learned counsel appearing for the informant, assisted by Mrs. Vandana Bharti, learned Addl. P.P. appearing for the State, has vehemently opposed the prayer for bail of these appellants and submitted that there is specific allegation against the appellants for assaulting the injured and therefore, they do not deserve to be released on bail. However, they admitted that the appellants were all along on bail during trial and they never misused the liberty granted by the Court.

6. Having heard learned counsel for the parties and after going through the judgment of the trial court and considering the submission that the appellants were all along on bail during trial and they never misused the liberty granted by the Court, during pendency of the appeal, the trial court (Addl. Sessions Judge-IV, Garhwa) is directed to admit appellant nos. 1, 3, 5 and 6 namely, Jannat Ansari, Bagar Ansari @ Aas Mohammad Ansari, Ali Hasan Ansari @ Hasan Ansari and Wasim Ansari, on bail on such terms and conditions as he may deem fit and proper in connection with Sessions Trial No. 289 of 2011/162 of 2012, subject to further condition that they will appear before the concerned police station once in a week. If they fail to appear before the concerned police station in three consecutive terms, the prosecution will be at liberty to file an application before the court for cancellation of bail of the appellants concerned.

7. So far as the prayer for bail of appellant no. 4-Tasmul Ansari @ Kasmul Ansari is concerned, after considering the evidences of P.Ws. 1, 2, 4, 7, 11 and 12, this Court is not inclined to release him on bail. Accordingly, the prayer for bail of appellant no. 4-Tasmul Ansari @ Kasmul Ansari is hereby rejected.

I.A. No. 3020 of 2016 stands disposed of.

I.A. No. 3018 of 2016 in Cr. A. (D.B.) No. 100/15

8. Heard the parties on the Interlocutory Application bearing I.A. No. 3018 of 2016, wherein prayer has been made to enlarge the appellants on bail.

9. So far as the prayer for bail of appellant nos. 1, 4, 5, 6 and 7 namely, Amanat Ansari, Jaan Mohammad Ansari, Gulzar Ansari, Mobal Ansari and Nassim Ansari, is concerned, Mr. Tripathy, learned senior counsel, seeks permission to withdraw the same with a liberty to move after six months.

10. Reserving the said liberty, the prayer for bail of appellant nos. 1, 4, 5, 6 and 7 namely, Amanat Ansari, Jaan Mohammad Ansari, Gulzar Ansari, Mobal Ansari and Nassim Ansari, is permitted to be withdrawn.

11. So far as prayer for bail of appellant nos. 2, 3, 8, 9 and 10 is concerned, Mr. B.M. Tripathy, learned senior counsel, submitted that appellant nos. 2, 3, 8, 9 and 10 were all along on bail during trial and they never misused the liberty granted by the Court and after passing of judgment of conviction and order of sentence, they were remanded back to jail and since then they are languishing in jail custody. It is further submitted that there is no overt act against the appellants and the only allegation is that they assaulted the injured and the trial court with the aid of Section 149 of the Indian Penal Code has convicted the appellants. It is further submitted that this appeal is not likely to be heard within five years and therefore, these appellants may be released on bail.

12. Mr. Binod Kumar, learned counsel appearing for the informant, assisted by Mrs. Vandana Bharti, learned Addl. P.P. appearing for the State, has vehemently opposed the prayer for bail of these appellants and submitted that there is specific allegation against the appellants for assaulting the injured and therefore, they do not deserve to be released on bail. However, they admitted that the appellants were all along on bail during trial and they never misused the liberty granted by the Court.

13. Having heard learned counsel for the parties and after going through the judgment of the trial court and considering the submission that the appellants were all along on bail during trial and they never misused the liberty granted by the Court, during pendency of the appeal, the trial court (Addl. Sessions Judge-IV, Garhwa) is directed to admit appellant nos. 2, 3, 8, 9 and 10 namely, Reyaz Ansari, Makbool Ansari @ Makbool Mian, Ismail Ansari, Naimuddin Ansari and Chandan Singh, on bail on such terms and conditions as he may deem fit and proper in connection with Sessions Trial No. 289 of 2011/162 of 2012, subject to further condition that they will appear before the concerned police station once in a week. If they fail to appear before the concerned police station in three consecutive terms, the prosecution will be at liberty to file an application before the court for cancellation of bail of the appellants concerned.

14. I.A. No. 3018 of 2016 stands disposed of.

I.A. No. 3135 of 2016 in Cr. A. (D.B.) No. 107/15

15. Heard the parties on the Interlocutory Application bearing I.A. No. 3135 of 2016, wherein prayer has been made to enlarge appellant-Mukhtar Ansari on bail.

16. Mr. Tripathy, learned senior counsel, submitted that the appellant was in custody since the date of his arrest. It is further submitted that there is no overt act against the appellant and the only allegation is that he assaulted the injured. It is further submitted that this appeal is not likely to be heard within five years and therefore, the appellant may be released on bail.

17. Mr. Binod Kumar, learned counsel appearing for the informant, assisted by Mrs. Vandana Bharti, learned Addl. P.P. appearing for the State, has vehemently opposed the prayer for bail of the appellant and submitted that there is specific

allegation against the appellant for assaulting Permanand Singh, Meena Devi and mother of the informant with lathi and therefore he does not deserve to be released on bail.

18. Having heard learned counsel for the parties and after going through the judgment of the trial court and considering the submissions that there is sufficient materials against the present appellant as well as the evidences of P.Ws. 7 and 8, this Court is not inclined to release the appellant on bail at this stage. Accordingly, the prayer for bail of appellant-Mukhtar Ansari is hereby rejected.

19. I.A. No. 3135 of 2016 stands disposed of.

I.A. No. 3063 of 2016 in Cr. A. (D.B.) No. 125/15

20. Heard the parties on the Interlocutory Application bearing I.A. No. 3063 of 2016, wherein prayer has been made to enlarge appellant-Roz Mohhamd @ Roz Mohammad Ansari on bail.

21. Mr. Tripathy, learned senior counsel, submitted that the appellant was in custody since the date of his arrest. It is further submitted that there is no overt act against the appellant and the only allegation is that he assaulted the injured. It is further submitted that this appeal is not likely to be heard within five years and therefore, the appellant may be released on bail.

22. Mr. Binod Kumar, learned counsel appearing for the informant, assisted by Mrs. Vandana Bharti, learned Addl. P.P. appearing for the State, has vehemently opposed the prayer for bail of the appellant and submitted that there is specific allegation against the appellant for assaulting the injured and therefore, he does not deserve to be released on bail.

23. Having heard learned counsel for the parties and after going through the judgment of the trial court and considering the submissions that there is sufficient materials against the present appellant as well as the evidences of P.Ws. 5 and 6, this Court is not inclined to release the appellant on bail at this stage. Accordingly, the prayer for bail of appellant-Roz Mohhamd @ Roz Mohammad Ansari is hereby rejected.

24. I.A. No. 3063 of 2016 stands disposed of.

I.A. No. 3064 of 2016 in Cr. A. (D.B.) No. 127/15

25. Heard the parties on the Interlocutory Application bearing I.A. No. 3064 of 2016, wherein prayer has been made to enlarge appellant-Shamsher Ansari on bail.

26. Mr. Tripathy, learned senior counsel, submitted that the appellant was in custody since the date of his arrest. It is further submitted that there is no overt act against the appellant and the only allegation is that he assaulted the injured. It is further submitted that this appeal is not likely to be heard within five years

and therefore, the appellant may be released on bail.

27. Mr. Binod Kumar, learned counsel appearing for the informant, assisted by Mrs. Vandana Bharti, learned Addl. P.P. appearing for the State, has vehemently opposed the prayer for bail of the appellant and submitted that there is specific allegation against the appellant for assaulting the injured and the deceased by means of Axe and therefore, he does not deserve to be released on bail.

28. Having heard learned counsel for the parties and after going through the judgment of the trial court and considering the submissions that there is sufficient materials against the present appellant as well as the evidences of P.Ws. 1, 2, 4, 5, 7 and 8, this Court is not inclined to release the appellant on bail. Accordingly, the prayer for bail of appellant-Shamsher Ansari is hereby rejected.

29. I.A. No. 3063 of 2016 stands disposed of.

I.A. No. 3298 of 2016 in Cr. A. (D.B.) No. 133/15

30. Heard the parties on the Interlocutory Application bearing I.A. No. 3298 of 2016, wherein prayer has been made to enlarge the appellants on bail.

31. So far as the prayer for bail of appellant nos. 1 and 2 namely, Noor Alam @ Noor Alam Ansari and Mahfooz Ansari, is concerned, Mr. P.P.N. Roy, learned senior counsel, seeks permission to withdraw the same with a liberty to move it after six months.

32. Reserving the said liberty, the prayer for bail of appellant nos. 1 and 2-Noor Alam @ Noor Alam Ansari and Mahfooz Ansari, is permitted to be withdrawn.

33. Regarding the prayer for bail of appellant nos. 3, 4 and 5, Mr. Roy, learned senior counsel, submitted that appellant nos. 3, 4 and 5 were all along on bail during trial and they never misused the liberty granted by the Court and after passing of judgment of conviction and order of sentence, they were remanded back to jail and since then they are languishing in jail custody. It is further submitted that there is no overt act against the appellants and the only allegation is that they assaulted the injured. It is further submitted that this appeal is not likely to be heard within five years and therefore, these appellants may be released on bail.

34. Mr. Binod Kumar, learned counsel appearing for the informant, assisted by Mrs. Vandana Bharti, learned Addl. P.P. appearing for the State, has vehemently opposed the prayer for bail of the appellants and submitted that there is specific allegation against the appellants for assaulting the injured and therefore they do not deserve to be released on bail. However, they admitted that the appellants were all along on bail during trial and they never misused the liberty granted by the Court.

35. Having heard learned counsel for the parties and after going through the judgment of the trial court and considering the submission that the appellants

were all along on bail during trial and they never misused the liberty granted by the Court, during pendency of the appeal, the trial court (Addl. Sessions Judge-IV, Garhwa) is directed to admit appellant nos. 3, 4 and 5 namely, Abulesh Ansari, Binay Singh and Chandeswar Singh, on bail on such terms and conditions as he may deem fit and proper in connection with Sessions Trial No. 289 of 2011/162 of 2012, subject to further condition that they will appear before the concerned police station once in a week. If they fail to appear before the concerned police station in three consecutive terms, the prosecution will be at liberty to file an application before the court for cancellation of bail of the appellants concerned.

36. I.A. No. 3298 of 2016 stands disposed of.

I.A. No. 3299 of 2016 in Cr. A. (D.B.) No. 183/15

37. Heard the parties on the Interlocutory Application bearing I.A. No. 3299 of 2016, wherein prayer has been made to enlarge appellant-Arif Ansari @ Arif Mian on bail.

38. Mr. Roy, learned senior counsel, submitted that the appellant is in custody since the date of his arrest. It is further submitted that there is no overt act against the appellant and the only allegation is that he assaulted the injured. It is further submitted that this appeal is not likely to be heard within five years and therefore, the appellant may be released on bail.

39. Mr. Binod Kumar, learned counsel appearing for the informant, assisted by Mrs. Vandana Bharti, learned Addl. P.P. appearing for the State, has vehemently opposed the prayer for bail of the appellant and submitted that there is specific allegation against the appellant for assaulting the injured and the deceased by means of Axe and therefore, he does not deserve to be released on bail.

40. Having heard learned counsel for the parties and after going through the judgment of the trial court and considering the submissions that there is sufficient materials against the present appellant as well as the evidences of P.Ws. 1, 2, 4, 5, 7 and 8, this Court is not inclined to release the appellant on bail. Accordingly, the prayer for bail of appellant-Arif Ansari @ Arif Mian is hereby rejected.

41. I.A. No. 3299 of 2016 stands disposed of.