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**(2020) 09 JH CK 0109**

**In the Jharkhand High Court**

**Case No : Bail Application No. 5443 Of 2020**

Ramchandar Mahto @ Ramhandra Mahto

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

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**Date of Decision :** 11-09-2020

**Acts Referred:**

Indian Penal Code, 1860 — Section 34, 201, 302

**Citation :** (2020) 09 JH CK 0109

**Hon'ble Judges :** Kailash Prasad Deo, J

**Bench :** Single Bench

**Advocate :** Baleshwar Yadav, Rakesh Ranjan

**Final Decision :** Allowed

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## **Judgement**

Heard, learned counsel for the petitioner, Mr. Baleshwar Yadav. Learned counsel for the petitioner has submitted that defect nos. 9 (i) to (iii), as per Stamp Reporting dated 18.08.2020, have not been removed, which he undertakes to remove within 30 days after the physical court starts and the bail application may be heard, as it is a regular bail application of the petitioner, who is in custody since 24.12.2018.

Considering the same, this Court is inclined to hear the instant bail application on merits, but with condition that petitioner shall remove the defect(s) 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 defect(s).

Learned counsel for the petitioner has submitted that the petitioner Ramchandar Mahto @ Ramhandra Mahto has renewed his prayer for bail in connection with Puso P.S. Case No. 05/2018, corresponding to G.R. No. 208/2019 (S.T. No. 127/2019) for the offence registered under Sections 302, 201 & 34 I.P.C.

Learned counsel for the petitioner has submitted that the prayer for bail of the

petitioner was twice rejected by this Court; firstly on 08.07.2019 passed in B.A. No. 4238/2019 and secondly on 28.02.2020 passed in B.A. No. 11862/2019 and on the last occasion i.e. on 28.02.2020, this Court, while rejecting the prayer for bail, has given liberty to the petitioner to renew his prayer for bail after examination of eye-witnesses namely, Kiran Devi, Basudeo Oraon and Baleshwar Oraon.

Learned counsel for the petitioner has submitted that though the impugned order is of dated 28.02.2019, which has already been considered in the previous bail applications, but a fact could not be brought before the knowledge of Court as Kiran Oraon @ Kiran Devi has been examined as P.W. -1 on 07.06.2019, Basudeo Oraon has been examined as P.W.-2 on 12.06.2019, 24.06.2019 and 25.06.2019 and Baleshwar Oraon has been examined as P.W.-3 on 16.07.2019 and 29.08.2019 and the last witness Michray Pareya has been examined on 31.01.2020 as P.W.-6, thereafter, there is no progress and other accused persons are enjoying the privilege on bail having similar evidence, which have been adduced by the eye witnesses, as such, considering the liberty given to the petitioner with regard to the examination of the witnesses, petitioner may be enlarged on bail.

Learned counsel for the petitioner has further submitted that consideration of evidence shall be done by the learned trial court at the time of final judgment of the criminal trial, but considering the parity with the other accused persons having similar allegation have been granted bail, this petitioner may also be enlarged on bail, as he is in custody since 24.12.2018.

Learned counsel for the State, Mr. Rakesh Ranjan, Additional Public Prosecutor has opposed the prayer for bail and has submitted that present bail application is on the basis of the same impugned order dated 28.02.2019, as such, petitioner may be asked to renew his prayer for bail first before the court of learned trial court, so as to bring the entire material before the Court.

Considering the rival submission of the parties, since the eye- witnesses have been examined and there is no chances of tampering with the evidence and the appreciation of evidence has to be done by the trial court at the time of final judgment and also considering the fact that similarly situated co-accused persons have already been enlarged on bail, the petitioner is also directed to be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each in connection with Puso P.S. Case No. 05/2018, corresponding to G.R. No. 208/2019 (S.T. No. 127/2019) to the satisfaction of learned Additional Sessions Judge-I, Gumla on the following conditions:

(i) One of the bailors shall be the deponent / pairvikar of the present case namely, Karmbir Gope, son of Ramdev Gope, resident of Village - Amaliya Pipar Toli, P.O. & P.S. - Bharno, District - Gumla, who has furnished his photocopy of UID Card bearing number 8226 5940 2376 before this Court in the bail

application.

Office is directed to send the photocopy of UID Card bearing no. 8226 5940 2376 of deponent alongwith this order to the court below so as to verify the authenticity of the bailor.

(ii) Another bailor shall be close relative of the petitioner i.e. father / mother / son / wife / brother.

(iii) Petitioner shall remain physically appear before the trial court on each and every date till conclusion of the trial, as there is no progress in the trial since 31.01.2020.

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

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

(vi) The petitioner shall follow all the guidelines issued by the Government to meet the challenges of Covid-19, as presently Country is passing through pandemic of Covid-19.

Accordingly, the instant bail application is allowed.