

IN THE HIGH COURT OF JHARKHAND AT RANCHI

B.A. No. 2672 of 2020

Avinash Kumar Srivastava @ Avinash Kumar Srivastav, aged about 27 years, son of Anand Kishore Prasad Petitioner

Versus

The State of Jharkhand Opposite Party

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner : Mr. Pran Pranay, Advocate

For the Opposite Party : Mr. P.K. Appu, A.P.P.

2/30.04.2020

1. Heard Mr. Pran Pranay, learned counsel appearing on behalf of the petitioner.
2. Heard Mr. P.K. Appu, learned counsel appearing on behalf of the State.
3. Learned counsel appearing on behalf of the petitioner submits that due to situation arising out of Covid-19 pandemic, the petitioner has not been able to remove the remaining defects as pointed out by the office, however, the defects pointed out by the office are formal in nature which may be ignored.
4. From perusal of the record it appears that remaining defects to be cured relate to nomenclature of the court in the Vakalatnama and regarding mentioning of the Sections in the impugned order as compared to what has been mentioned in the FIR under which the petitioner has been made accused.
5. The learned counsel for the petitioner submits that the FIR is on record and the sections mentioned in the FIR are the sections under which the petitioner has been made accused.
6. Learned counsel appearing on behalf of the opposite party has no serious objection to the prayer made for ignoring of these defects considering the situation of COVID -19 pandemic.
7. Considering the aforesaid submissions and with the consent of the parties, the remaining defects as pointed out by the office is hereby ignored considering the COVID -19 situation.

8. The case is taken up on merits with the consent of the parties.
9. Learned counsel for the petitioner submits that the petitioner is in custody since 08.07.2019 in connection with Parsudih P.S. Case No. 139 of 2019, corresponding to G.R. Case No. 1145 of 2019 for the offences registered under Sections 147, 148, 149, 341, 323, 324, 325, 307, 302, 120B of the Indian Penal Code, now pending in the court of learned Additional Chief Judicial Magistrate, Jamshedpur.
10. Learned counsel for the petitioner submits that the present case arises out of fight between two groups which has taken place inside the jail. He further submits that the petitioner has been granted bail in the case in which the petitioner was initially taken into custody.
11. So far as merits of the present case is concerned, learned counsel for the petitioner submits that in the F.I.R. itself, there are two columns of the accused persons and the name of the petitioner appears only in the 1st column which relates to the assault on one Pankaj Dubey who suffered minor injuries. So far as assault on Manoj Singh is concerned, the name of the petitioner is not appearing. He further submits that a number of similarly situated co-accused of the present case have been enlarged on bail by coordinate bench of this court, the orders of which have been annexed as Annexure-2 series. Learned counsel also submits that his client is ready to download Aarogya Setu App immediately after being released from custody and shall abide by the directions of the Central Government as well as State Government issued in connection with containment of Covid-19 pandemic. He also submits that such measures are for the benefits of the petitioner .
12. Learned counsel appearing on behalf of the opposite party on the other hand opposes the prayer but however he does not dispute the fact that similarly situated co-accused have been enlarged on bail and the name of the petitioner appears only in

connection with the assault upon Pankaj Dubey who suffered minor injuries.

13. After hearing learned counsel for the parties and considering the facts and circumstances of this case and also the situation emerging out of Covid-19 pandemic, this court is inclined to enlarge the petitioner on bail on his furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Jamshedpur, Parsudih P.S. Case No. 139 of 2019, corresponding to G.R. Case No. 1145 of 2019, on the following conditions:

- (i) The petitioner shall download the 'Aarogya Setu App' immediately after being released from custody and shall abide by the directions of the Central Government as well as State Government issued in connection with containment of Covid-19 pandemic.
- (ii) The petitioner will give his mobile number before the learned court below which he will not change during the pendency of the case before the learned court below without prior permission of the court.
- (iii) Once regular functioning of the learned court below resumes, the petitioner shall fully co-operate with the proceedings and shall appear before the learned court below on each and every date and on account of even single default, his bail bond will be cancelled by the learned court below.

14. The instant bail application is allowed with the aforesaid conditions.

15. Let this order be communicated to the court concerned through FAX.

(Anubha Rawat Choudhary, J.)