

B.A. No. 2764 of 2020

Versus

The State of Jharkhand Opposite Party

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner : Mr. Jitendra Nath Upadhyay, Advocate

For the Opposite Party: Mr. Sardhu Mahto, A.P.P.

2/30.04.2020

1. Heard Mr. Jitendra Nath Upadhyay, learned counsel appearing on behalf of the petitioner.
2. Heard Mr. Sardhu Mahto, learned A.P.P. appearing on behalf of the State.
3. Learned counsel appearing on behalf of the petitioner submits that there are three remaining defects which are yet to be cured which are formal in nature. Learned counsel further submits that these defects may be ignored.
4. Learned counsel appearing on behalf of opposite party submits that considering the pandemic situation the defects being formal in nature, he has no objection, if the remaining defects are ignored and the case is taken up on merit. The remaining defects relate to name of the learned judge of the lower court who has passed the order rejecting the bail application, partly filled up brown cover of the main petition and that alias name of the petitioner has not been mentioned in the A.G slip .
5. Considering the submissions made and the pandemic situation arising out of Covid-19, this court hereby ignores the remaining defects as pointed out by the office.
6. With the consent of parties, the case is taken up on merit.
7. Learned counsel for the petitioner submits that the petitioner is in custody since 30.09.2019 in connection with Gamharia P.S. Case No. 66 of 2019, corresponding to G.R. No. 733 of 2019, for

the offence registered under Section 379 of the Indian Penal Code, now pending in the court of learned Chief Judicial Magistrate, Seraikella.

8. Learned counsel for the petitioner submits that charge sheet has already been submitted in the present case. Learned counsel further submits that the petitioner is not named in the F.I.R. and the name of the petitioner has come in the confessional statement of the co-accused. He also submits that there is no recovery from the petitioner.
9. Learned counsel for the petitioner submits that his client is ready and willing to deposit Rs. 1500/- in the CM CARE FUND created by the State of Jharkhand for the purposes of fighting with Covid-19 pandemic. He also submits that there are number of orders passed by coordinate benches of this court in connection with the deposit of amount in different welfare funds as a condition of bail and he has also cited some such orders. He also submits that he is ready to 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. He also submits that these measures are for the benefits of all including the petitioner.
10. In B.A. No. 4774 of 2018, B.A. No. 5951 of 2018, B.A. No. 5946 of 2018 and also in B.A. No. 5988 of 2018 directions were issued to deposit certain amount in Chief Minister's Distress Relief Fund, Thiruvananthapuram, Kerala, as a condition for bail.
Similarly in B.A. No. 205 of 2019 and B.A. No. 4205 of 2019 directions were issued to deposit certain amount in Army Welfare Fund Battle Casualties, New Delhi as a condition for bail.
Also, in A.B.A. No. 816 of 2020 dated 15.04.2020 direction was

issued to deposit certain amount in Prime Minister's Citizens Assistance and Relief in Emergency Situations (PM CARES) Fund, as a condition for bail.

11. Upon this learned counsel appearing on behalf of the State on the other hand submits that the petitioner though not named in the F.I.R. but his name appears in the confessional statement of the co-accused. He further submits that the petitioner has criminal antecedent.
12. 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 Chief Judicial Magistrate, Seraikella, in connection with Gamharia P.S. Case No. 66 of 2019, corresponding to G.R. No. 733 of 2019, on the following conditions:
 - (i) The petitioner, shall show proof of payment of Rs. 1500/- (One thousand five hundred) in the account created by the State of Jharkhand to fight COVID -19 before the learned court below prior to his release. The details of the account as published in newspaper Dainik Jagran Ranchi on 25.04.2020 is as under :- *Chief Minister's Relief Fund, A/c No. 11049021058, IFSC Code: SBIN0000167 and SWIFT CODE: SBININBB387*
 - (ii) 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.
 - (iii) 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.

- (iv) 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.

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

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

(Anubha Rawat Choudhary, J.)

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