

IN THE HIGH COURT OF JHARKHAND AT RANCHI
B.A. No. 2784 of 2023

Om Prakash Sahu Petitioner
Versus
The State of Jharkhand Opp. Party

CORAM : HON'BLE MR. JUSTICE SUBHASH CHAND

For the Petitioner : Mr. V. Shivnath, Sr. Advocate
Mr. Navin Kumar, Advocate
For the State : Mr. Shashi Kumar Verma, A.P.P.

Order No.04 /Dated: 22nd December, 2023

1. Heard Mr. V. Shivnath, learned senior counsel assisted by Mr. Navin Kumar, learned counsel for the applicant and Mr. Shashi Kumar Verma, learned A.P.P. for the State.
2. This bail application has been filed on behalf of the abovenamed applicant with prayer to release on bail in connection with Lohardaga (Mahila) P.S. Case No. 09 of 2022 (Special POCSO Case No.32 of 2022) registered under Sections 376(D) and 506 of the Indian Penal Code, 1860 and Section 06 of the POCSO Act pending in the court of learned Additional Sessions Judge-I-cum-Special Judge, Lohardaga.
3. Learned senior counsel for the applicant has submitted that the F.I.R. of this case was lodged against two named accused including the applicant by the mother of victim with these allegations that her 13 years old daughter was coming from the house of her friend on 02.04.2022, amid the way, one Pappu Sahu and Om Prakash Sahu both dragged the daughter of informant towards agricultural field and both gang raped her. Daughter of the informant told in regard to ordeal to her mother and the matter was also placed before the meeting of the persons of village and thereafter this F.I.R. was lodged.
4. Learned senior counsel for the applicant has further submitted that though in the F.I.R. both accused are named including the applicant. The role assigned to both the accused persons is same. The victim also corroborated the prosecution story in her statement recorded under Sections 161 and 164 of the Code of Criminal Procedure. During examination before the trial court, the victim deviated from her previous statement made under Sections 161 and 164 of the Code of Criminal Procedure in regard to the co-accused, namely, Pappu Sahu, who has been granted bail by this Bench vide order dated 15.12.2022 in

B.A. No.10496 of 2022 while she remains intact with the previous statement in regard to the occurrence against the present applicant. So far as the medical evidence is concerned, the same is not corroborated with the prosecution story. In view of the above, contended to enlarge the petitioner on bail.

5. Learned A.P.P. appearing on behalf of the State vehemently opposed the contentions made by the learned counsel for the applicant.

6. From perusal of the FIR, it is found that the FIR of this case was lodged by the mother of victim and the contents of the same is corroborated by the statement of victim recorded under Sections 161 and 164 of the Code of Criminal Procedure. The victim was examined before the learned trial Court and her deposition statement is made annexure of this Bail Application. From perusal of the same, it is found that the victim was declared hostile, so far as the co-accused Pappu Sahu is concerned, in regard to him, she denied the commission of rape upon her committed by him; but so far as the testimony of victim as relates to the present applicant, namely, Om Prakash Sahu is concerned, she not only in examination-in-chief but also in cross-examination contended that this applicant had committed rape upon her. This victim has consistently attributed role of committing rape upon her by the present applicant in her statement recorded under Sections 161 and 164 of the Code of Criminal Procedure and also before the trial Court during her examination.

7. So far as the medical evidence is concerned, the medical examination was conducted after six days from the date of occurrence though no recent sign of rape is shown; yet the hymen is shown rapture and the same becomes relevant taking into consideration the age of victim, who was 13 years old.

8. In view of the submissions made and materials on record, the bail application of the applicant is hereby rejected.

(Subhash Chand, J.)