

Raushan Kumar Ray Vs. State of Jharkhand

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Court : Jharkhand

Decided On : Sep-12-2008

Reported in : [2008(4)JCR618(Jhr)]

Judge : Ajit Kumar Sinha, J.

Appellant : Raushan Kumar Ray

Respondent : State of Jharkhand

Judgement :

ORDER

Ajit Kumar Sinha, J.

1. The petitioner has preferred this bail application No. 1863 of 2008 for grant of regular bail in connection with Latehar Police Station Case No. 44/2001 dated 25.4.2001 corresponding to G.R. No. 155/2001, registered under Sections 304-B, 498-A/34 of the Indian Penal Code and under Sections 3/4 of the Dowry Prohibition Act which is pending in the Court of learned Additional Chief Judicial Magistrate, Latehar.

2. I have heard at length the arguments advanced on behalf of the petitioner as well as the State and have also considered the impugned order dated 14.2.2008 vide which the learned Sessions Judge, Latehar has rejected the prayer for bail.

3. The present petition has been preferred by the brother-in-law (dewar) of the deceased. The counsel for the petitioner submits that he is innocent and has been falsely dragged and implicated belatedly in the present case. The main contention raised on behalf of the petitioner is that initially after investigating the police submitted the charge sheet only against Rakesh Kumar Rai, who was husband and he alone was sent up for trial.

4. In the instant case the date of occurrence is 19.4.2001 and the case was registered after a delay of six days i.e. on 25.4.2001 and the first charge sheet was filed only against Rakesh Kumar Rai, the husband of the deceased who faced the trial and was convicted. The second charge sheet against the present petitioner has been submitted on 22.12.2007. The counsel for the petitioner further submits that the petitioner has been dragged in the instant case after an unexplained delay of nearly over five years and even the warrant was issued for the first time on 13.6.2005.

5. The learned APP appearing for the State; submits that the present petitioner was also named in the FIR but later in the first charge sheet he was not sent up for trial. However, subsequently warrant was issued for the first time on 13.6.2005 but the petitioner absconded. He also submits that the present petitioner took active part in burning of the dead body of the deceased.

6. I have considered the rival contentions and also the impugned order dated 14.2.2008 passed by the learned Sessions Judge, Latehar. I have gone through the case diary and in particular Para 5 of the supplementary case diary and I find that the case was supervised by the Dy. S.P. who found the complaint case to be true against the husband of the deceased and mother-in-law of the deceased while no evidence was found against the present petitioner. Even otherwise the charge sheet was filed after five years without assigning any cogent reason for the delay and the same was without any new facts or evidence for roping the petitioner.

7. As per Section 173(8) Cr PC nothing in the Section shall be deemed to preclude further investigation in respect of an offence after a report under Sub-section (2) has been forwarded to the Magistrate and whereupon such investigation, the

officer-in-charge of the Police Station obtained further evidence, oral or documentary he shall forward the Magistrate a further report or reports regarding such evidence in the form prescribed.

8. In the instant case the admitted facts remains that the occurrence took place on 19.4.2001 and the case was registered on 25.4.2001 and the charge sheet against the present petitioner was submitted on 22.12.2007. The warrant for the first time was issued against the present petitioner on 13.6.2005 and neither any new or further evidence either oral or documentary was found against the petitioner which also get supported vide para5 of the supplementary case diary.

9. Considering the aforesaid facts and circumstances of this case the petitioner is directed to be enlarged on bail on furnishing a bail bond of Rs. 10,000/-with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Latehar in connection with Latehar Police Station Case No. 44/2001 corresponding to G.R. No. 155/2001 subject to the condition that the petitioner will remain present in the trial Court on each date till the conclusion of the trial.