

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.184/2019
Arising out of
Special Leave to Appeal (Crl.) No.8787/2018

SONALI KUMARI

... Appellant(s)

VERSUS

THE STATE OF BIHAR & ANR.

... Respondent(s)

ORDER

Leave granted.

2. This appeal is preferred by the complainant seeking cancellation of bail granted to the accused-respondent no. 2, by the High Court of Judicature at Patna in Criminal Miscellaneous No. 29512 of 2017 in a case wherein, accused-respondent no. 2 was charged for the offence punishable under Sections 354, 354(A), 354(B), 342 of the IPC and Section 7 of POCSO Act, as per the FIR No. 05/17. Thereafter, accused-respondent no. 2 was charged under Section 376(g) of the IPC and Section 8 of the POCSO Act, as per the final report dated 14.01.2017, filed by the police under Sec. 173/174 Cr.P.C.

3. According to the prosecution, a complaint was lodged at Khusrupur Police Station on 14th January, 2017 by a minor girl that while she was going to a shop to purchase an electric bulb, the accused-respondent No. 2 and two other boys, came from behind, grabbed her mouth, forcibly took her away to an isolated place and committed rape on her. On the basis of complaint, police registered the case against the accused and got the victim medically examined at the primary health centre. After investigation, aforesaid charges were levelled against the accused. Subsequently, his application for bail before the Trial Court came to be rejected. Being aggrieved thereby, accused-respondent no. 2 approached the High Court, wherein the High Court vide impugned order granted him bail, after subjecting the same to certain conditions. Challenging the said order of the High Court, the complainant is in appeal before us.

4. We have heard Mr. Colin Gonsalves, learned Senior counsel appearing for the appellant-complainant, Ms. Fauzia Shakil, learned counsel appearing for respondent No.1 (State of Bihar) and the learned counsel appearing for accused-respondent no. 2, as well.

5. The essence of contentions advanced on behalf of the complainant and the State are that, the High Court did not assess the gravity of heinous crime committed by the accused, despite it is

abundantly clear on record that the victim had not only identified the accused but also explained the manner in which the accused committed the offence of rape on her. Without adhering to the settled principles of law, the High Court granted bail to the accused, in a casual manner.

6. On the other hand, learned counsel appearing for the accused-respondent no. 2 submits that, there was manipulation in the F.I.R. and also in the Medical Report.

7. Having heard learned counsel for the parties, we have carefully perused the material on record, including Case Diary, Medical Report etc. and there is prima facie case made out by the prosecution. We are also informed that the trial of the case still is going on. In these circumstances, particularly taking into account the charges levelled against the accused and the gravity of the offence in which he was allegedly involved, we are of the opinion, that the High Court ought not have granted bail to the accused—Respondent No. 2.

8. We therefore, without further delving into the details and merits of the case, set aside the impugned order dated 25th July, 2017 passed by the High Court. In consequence thereof, the accused—respondent No. 2 is directed to surrender before the concerned Court

within a period of ten days from today, failing which the concerned police authorities shall take him into custody.

9. However, after surrendering himself, the accused will be at liberty to move an application seeking regular bail before the Trial Court. The Trial Court shall deal with such application, if moved, on its own merits independently and in accordance with law, without being influenced by any observations of this Court made in this order.

10. Needless to say that since the incident dates back to more than two years, we direct the Trial Court to expedite the trial and dispose of the case as expeditiously as possible.

11. The appeal stands allowed accordingly.

.....**J.**
(N.V.RAMANA)

.....**J.**
(MOHAN M.SHANTANAGOUDAR)

.....**J.**
(INDIRA BANERJEE)

NEW DELHI,
JANUARY 30, 2019.

ITEM NO.3

COURT NO.4
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SECTION II-A

Petition(s) for Special Leave to Appeal (Crl.) No(s). 8787/2018

(Arising out of impugned final judgment and order dated 25-07-2017 in CRLM No. 29512/2017 passed by the High Court of Judicature at Patna)

SONALI KUMARI

Petitioner(s)

VERSUS

THE STATE OF BIHAR & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.50104/2018-EXEMPTION FROM FILING O.T.)

Date : 30-01-2019 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Petitioner(s)

Mr. Colin Gonsalves, Sr. Adv.
Ms. Olivia Bang, Adv.
Mr. Satya Mitra, AOR
Neiteo Koza, Adv.

For Respondent(s)

Mr. M. Shoeb Alam, AOR
Ms. Fauzia Shakil, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Gautam Prabhakar, Adv.
Mr. Mojahid Karim Khan, Adv.

Mr. Santosh Kumar, Adv.
Mr. Rajiv Dalal, Adv.
Mr. Aditya Singh, AOR
Mr. M. Husain Khan, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application filed in the matter also stands disposed of.

(VISHAL ANAND)
COURT MASTER (SH)

(RAJ RANI NEGI)
ASSISTANT REGISTRAR

(Signed Order is placed on the file)