

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
I.A. No.10991 of 2019
In
Cr. Appeal (D.B.)No. 1149 of 2019**

Md. Akhtar @ Karu Mian **Appellant**

Versus
The State of Jharkhand **Respondent**

**CORAM: HON'BLE MR. JUSTICE AMITAV K. GUPTA
HON'BLE MR. JUSTICE RAJESH KUMAR**

For the Appellant :Mr. Awanikant Prasad, Advocate
For the State : Mr. Abhay Kr. Tiwari, APP

03/Dated:02.03.2020

I.A. No.10991 of 2019

1. This interlocutory application has been filed under Section 389 (1) of the Code of Criminal Procedure for suspension of the sentence and grant of ad-interim bail, to the appellant namely -Md. Akhtar @ Karu Mian, during the pendency of the appeal.
2. The appellant has been convicted for the offence under Sections 364(A), 341, 302 of the Indian Penal Code and sentenced to undergo rigorous imprisonment of life and fine of Rs.10,000/- in default thereof to undergo further imprisonment of one year.
3. Heard the learned counsel for the appellant and the learned APP and on perusal of the materials on record, it appears that PWs.-10, 11 and 17 have stated that they had seen the deceased with the appellant on 12.08.2014. The F.I.R was lodged on 16.08.2014 and the dead body was recovered on 17.08.2014. It is stated that the shoes of the deceased was recovered from the house of the appellant. The Investigating Officer had seized blood stained earth from the house of the appellant. The Investigating Officer had not sent the blood stained soil for serological examination to the Forensic Science Laboratory. The court below has discussed the laches on the part of the Investigating Officer but has convicted the appellant on the theory that the deceased was last seen with the appellant. P.W.6- the informant has stated that when he made calls on the mobile belonging to him which was in the possession of the deceased, then the appellant had answered the calls. It appears from the materials on record that the phone was recovered on the confessional statement of the appellant from the mobile-shop of one Deepak Kumar. It transpires that

Deepak Kumar has not been examined by the prosecution neither C.D.R. details of the recovered mobile was produced by prosecution. It also appears that the shoes recovered from the house of the appellant and the mobile recovered from the shop of Deepak Kumar was not produced in the court below. None of the seizure list witnesses have been examined by the prosecution.

Considering the materials on record and the lackadaisical approach the prosecution in non-examination of one Deepak Kumar, from whose shop the mobile was recovered and non-production of C.D.R. of the said mobile and not holding the T.I.P. of the mobile or recovered shoes by prosecution, we are inclined to suspend the sentence of the appellant -Md. Akhtar @ Karu Mian, and enlarge him on bail on his furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of like amount each to the satisfaction of the learned District & Additional Sessions Judge-III, Hazaribag, in connection with Sessions Trial No.511 of 2014.

4. The appellant shall remain present before the Court, when the appeal is taken up for hearing, failing which his bail shall be cancelled.

5. In the result I.A. No.10991 of 2019 stands allowed.

Cr. Appeal (D.B.)No. 1149 of 2019

1. It is evident that the Investigating Officer of the instant case has adopted a very casual approach in conducting the investigation of such a gruesome crime and a lackadaisical approach has been adopted in supervision of the investigation.

2. The Supreme Court in catena of decisions has observed and issued direction that the investigating agency should investigate case in a proper manner. If mistakes are committed due to culpable lapses on the part of the Investigating Officer then such erring officer should suffer his lapse by appropriate departmental action.

In the light of the observation made herein the Superintendent of Police, Hazaribagh, shall initiate disciplinary action against the Investigating Officer of the case for the omission and commission and the lackadaisical approach in conducting the investigation in a callous and irresponsible manner. The salary of the Investigating Officer shall not be paid till conclusion of the inquiry. The court shall be intimated about the initiation and outcome of the disciplinary proceeding.

Registry to send a copy of the order to the Principal Secretary, Department of Home, State of Jharkhand and the

Director General of Police, Jharkhand to take remedial steps by constituting a course content of refresher training programme for the investigating/ prosecuting officials for acquainting them with emerging scientific tools of investigation, judgment of the courts, etc. It is expected that the higher authorities will take effective measures for evolving the procedural mechanism in imparting proper training to the concerned officials for utilization of scientific tools in investigation of case so that the cause of justice is served. It is noticed that in majority of the cases due to laches on the part of the prosecuting officials, the relevant material evidences and witnesses are not produced which casts a cloud of doubt on the prosecution case and the benefit of doubt is given to the accused persons.

3. The D.G.P. and the responsible officer should ensure implementation of proper training for apprising and sensitizing the officials concerned with investigation of the cases with the help of the scientific tools by constituting a committee of experts.

4. The copy of the order along with the judgment be also sent to the Director, Judicial Academy, Jharkhand, to put in place refresher training programme for the judicial officers to apprise them of the provisions of Criminal Procedure Code and Evidence Act, which are required to be invoked during the trial of cases so that relevant documents are produced and material witnesses are examined in delivery of criminal justice. The presiding officers should apply their judicial mind for proper appreciation of the evidence in deciding the cases.

(AMITAV K. GUPTA, J.)

(RAJESH KUMAR, J.)