Copy of order

IN THE HIGH COURT OF DELHI AT NEW DELHI

NO. 48172 /Crl. Br. DATED 02.11.19 (2)

FROM:

The Registrar General,
High Court of Delhi,
New Delhi.

TO:

1. The District & Sessions Judge (Headquarters), Tis Hazari Court, Delhi.
2. The District & Sessions Judge, District – Central, Tis Hazari Court, Delhi.
3. The District & Sessions Judge, District – West, Tis Hazari Court, Delhi.
4. The District & Sessions Judge, District – North-West, Rohini, Delhi.
5. The District & Sessions Judge, District – North, Rohini, Delhi.
6. The District & Sessions Judge, District – East, Karkardooma Court, Delhi.
7. The District & Sessions Judge, District – North-East, Karkardooma Court, Delhi.
8. The District & Sessions Judge, District – Shahdara, Karkardooma Court, Delhi.
9. The District & Sessions Judge, District – South, Saket Court, New Delhi.
10. The District & Sessions Judge, District – South-East, Saket Court, Delhi.
11. The District & Sessions Judge, District – South-West, Dwarka Court, New Delhi.
12. The District & Sessions Judge, District – New Delhi, Patiala House Courts, New Delhi.
13. The District & Sessions Judge-cum-Special Judge, Rouse Avenue, New Delhi.
14. Sh. Gaurav Rao, Addl. Sessions Judge-01(POCSO), South-East District, Saket Courts, New Delhi. / or succeesor court.
15. The Superintendent, Central Jail, Tihar, New Delhi.

CRL.APPEAL NO. 1046/2019IN CRL.M.B. No. 1621/2019

Ravinder @ Shati ..... Appellant

Versus

State .....Respondent

Appeal under Section 374 Cr.P.C filed against the judgment/order 11/07/2019 and 17/07/2019 Passed by Sh. Gaurav Rao, Addl. Sessions Judge-01(POCSO), South-East District, Saket Courts, New Delhi in SC No. 1998/2016, (Old No. 97/14), FIR No, 135/2014, PS: Pur Prahlad Pur, U/s -326 IPC & Section 12 POCSO Act.

Sir,

I am directed to forward herewith for immediate compliance/neccessary action, a copy of judgement/order dated **31/10/2019** passed by **Hon'ble Ms. Justice Anu Malhotra** of this court in the above noted case.

DKSJ (ARS)
04.11.19
OIC (General)

Necessary directions are contained in the enclosed copy of order.

Yours faithfully

Admn. Officer (J),Crl-I
for Registrar General

Encl: Copy of Judgement/Order dated **31.10.2019**
Memo of Parties.

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(3)

IN THE HIGH COURT OF DELHI AT NEW DELHI

CRIMINAL APPEAL NO. 1046 OF 2019

MEMO OF PARTIES

IN THE MATTER OF :

Ravinder @ Shati S/o Sh. Dhanpal,
R/o House No. A/31, Street No. 1,
Karawal Nagar, Delhi. Appellant

Versus

State of NCT of Delhi
Through its' Home Secretary
Secretariat, I.P. Estate
ITO, New Delhi Respondent

AGAINST THE IMPUGNED JUDGMENT AND ORDERS DATED 11.07.2019 AND 17.07.2019 RESPECTIVELY PASSED IN SC NO. 1998/16 (OLD CASE NO. 97/14) BY THE HON'BLE ADDITIONAL SESSION JUDGE, ASJ-01 (POCSO) SAKET COURT,

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(4)

DELHI, ARISING OUT OF FIR 135/14 REGISTERED AT P.S. PUL PRAHLAD PUR U/S. 12 OF POCSO & 325 OF IPC

Filed by :

[REEPAK KANSAL & SUMAN SHEKHAR JHA]
Advocates for the Appellant
232, New Lawyers Chamber
Supreme Court of India
New Delhi

New Delhi
Date: 31.08.2019

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CRL.A. 1046/2019 & CRL.M.(BAIL) 1621/2019

RAVINDER @ SHATI ..... Appellant

Through: Mr. Deepak Kansal & Mr. Yadunandan Bansal, Advocates.

versus

STATE ..... Respondent

Through: Mr. Kewal Singh Ahuja, APP for State with ASI Rampal Singh, PS PUL Prahalad Pur.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **31.10.2019**

The status report qua CRL.M.(BAIL) 1621/2019 has been submitted on behalf of the State. The appellant herein has been convicted under Section 325 of the Indian Penal Code, 1860 and under Section 12 of the POCSO Act, 2012.

A bare perusal of the impugned order on sentence dated 17.07.2019 vide para 5 thereof observed to the effect that the victim was about 15 years of age at the time of the incident and that the convict i.e. the appellant herein had almost for six months sexually harassed the victim. In the circumstances, it is considered essential that the appeal is heard in toto. The appellant who is not present

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today, is directed to be present on the date 04.11.2019, till which date the order on sentence dated 17.07.2019 of the Trial Court shall operate as being an order for interim bail. The appellant shall be present on the date 04.11.2019 for which date the Trial Court Record be requisitioned without default by the Registry and be placed before this Court.

It is essential to observe that vide order dated 17.07.2019, the learned Trial Court observed vide para 11 thereof to the effect:-

> ***"11. At this stage, an application u/s 389 Cr.P.C. has been moved by accused/convict for suspension of sentence. Considered. As the accused/convict was on bail during trial he is admitted to bail furnishing bail bond in the sum of Rs.30,000/- with one surety of the like amount for 30 days. Bail bonds furnished, considered and accepted."***

The said observations in para 11 of the impugned order on sentence dated 17.07.2019 virtually grant bail to the appellant herein in toto for 30 days, though what he had sought was merely a suspension of sentence with the application having been filed under Section 389 of the Cr.P.C., 1973. Though undoubtedly, in terms of Section 389(3)(1) of the Cr.P.C., 1973 where the convicted person satisfies the Court by which he is convicted that he intends to present an appeal, the Court shall where such person being on bail is sentenced to imprisonment for a term not exceeding three years order that the convicted person be released on bail unless there are special reasons for refusing bail, and in the instant case, the appellant was

sentenced to undergo Simple Imprisonment for a period of three years along with a fine of Rs.10,000/- for having committed an offence punishable under Section 325 of the Indian Penal Code, 1860 and sentenced to undergo Simple Imprisonment for a period of three years along with a fine of Rs.10,000/- qua the offence punishable under Section 12 of the POCSO Act, 2012 with the sentences having been directed to run concurrently with the benefit of Section 428 of the Cr.P.C., 1973 having been granted to the appellant herein, it is essential to observe that the impugned order on sentence granting bail virtually in toto for 30 days, is not in consonance with the provisions of Section 389(3) of the Cr.P.C., 1973, in as much as the learned Trial Court could have granted bail even in terms of Section 389(3)(i) of the Cr.P.C., 1973 only for such period to provide sufficient time to the appellant to present the appeal and to obtain the orders of the Appellate Court i.e. of this Court under Sub-Section (3)(i) and the sentence of imprisonment would thus, to that extent be deemed to have been suspended.

It is in these circumstances, that it has been directed hereinabove that the order dated 17.07.2019 of the Trial Court shall continue to operate as interim bail till the period 04.11.2019 on which date the appeal is directed to be heard in toto. The learned Trial Courts shall ensure that at the time of consideration of applications under Section 389 (3) of the Cr.P.C., 1973, the provisions of the Code of Criminal Procedure, 1973 which specify to the effect that the grant of bail to be granted by the convicting Court is only for the

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period that the appellant is granted sufficient time to present the appeal and to obtain the orders of the Appellate Court to which extent, the order on sentence of imprisonment can remain suspended and not beyond in toto and not in vacuum.

Copy of this order be sent to the learned Trial Court and to all the Sessions Courts of the city by the Registrar General of this Court for compliance of the provisions of law.

ANU MALHOTRA, J

OCTOBER 31, 2019/NC

OFFICE OF THE DISTRICT & SESSIONS JUDGE (HQs): DELHI

No. 60148-60198 Genl./J.Cir./HCS /2019

Dated, Delhi the 07 NOV 2019

Sub.: Compliance of directions contained in order dated 31.10.2019 passed by Hon'ble Ms. Justice Anu Malhotra, High Court of Delhi in Crl. A.1046/2019 & Crl. M.(Bail) 1621/2019, title " Ravinder @ Shati Vs. State".

Copy of the letter no. 48172/Crl. Br. dated 02.11.2019, received from the Registrar General, Hon'ble High Court of Delhi, New Delhi along with copy of order dated 31.10.2019 passed by Hon'ble Ms. Justice Anu Malhotrta, High Court of Delhi, New Delhi in Crl. Appeal No. 1046/2019 in Crl. M.B. No. 1621/2019 titled "Ravinder @ Shati Vs. State " is circulated for information and necessary action/ compliance to:-

1. *All the Ld. Judicial Officers dealing with criminal matters, Central District, Tis Hazari Courts, Delhi.*
2. *The Director (Academics), Delhi Judicial Academy, Dwarka, New Delhi for information as requested vide letter no.DJA/Dir.(Acd)/2019/4306 dated 06.08.2019.*
3. *The Chairman, Website Committee, Tis Hazari Courts, Delhi with request to direct the concerned official to upload the same on the Website of Delhi District Courts.*
4. *P.S to Ld. District & Sessions Judge (HQs) Tis Hazari Courts, Delhi.*
5. *Dealing Assistant, R&I Branch, for uploading the same on LAYERS.*
6. *For uploading the same on Centralized Website through LAYERS.*

(BHUPESH KUMAR)
Officer-In-Charge, Genl. Branch, (C)
Addl. District & Sessions Judge
Tis Hazari Courts, Delhi

Encl.: As above.

No. 2433 Genl./J.Cir./HCS /2019 Dated, Delhi the 07 NOV 2019

Copy to:

The Ld. Registrar General, Hon'ble High Court of Delhi, New Delhi for information.

Officer-In-Charge, Genl. Branch, (C)
Addl. District & Sessions Judge
Tis Hazari Courts, Delhi