

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

M.A. No. _____ OF 2024

IN

SPECIAL LEAVE PETITION (CRIMINAL) No. 8857 OF 2023

IN THE MATTER OF:

DANISH RIZWAN @ MD. DANISH RIZWAN

PETITIONER

VERSUS

STATE OF JHARKHAND

RESPONDENT

AND IN THE MATTER OF:

PADMA BARAIK

APPLICANT

PAPER BOOK

[KINDLY SEE INSIDE FOR INDEX]

I.A. No. _____ OF 2024

Application for directions

I.A. No. _____ OF 2024

Application seeking impleadment

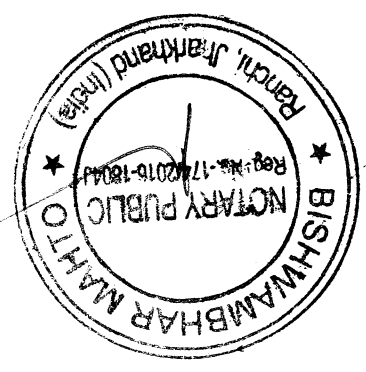
ADVOCATE FOR THE APPLICANT: MRITUNJAY KUMAR SINHA

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Authorised under Notaries Act 1952
& Notaries Rules 1956 Govt. of
Jharkhand, Ranchi (India)

Ref. No. 02 Date 22/04/2024



I, Padma Baraik, D/o Rajendra Baraik, aged about 36 Years, R/o H.No. 116, Harmu Housing Colony, PO Harmu, Police Station Argora, District Ranchi, Jharkhand, do hereby solemnly affirm and state as under:-

1. That I am the applicant in the case as such am well conversant with the facts and circumstances of the case, hence am competent to swear this affidavit.

2. That I have read a copy of the accompanying Synopsis /List of dates and events from page no. to MA from para 1 to 19 --from page no. 1 to 9 and Ias from page no. -to - and having understood the contents thereof, I say that the facts stated therein are true to my knowledge and as per the records. *The annexes are true copies of their respective originals.*

3. That the facts stated in the above affidavit are true to my knowledge and belief.

No part of the same is false and nothing material has been concealed therefrom.

DEPONENT
92411 219189

Signature, Address and
Identification of Lawyer
01/04/2024
819 234

IN THE MATTER OF
DANISH RIZWAN @ MD.DANISH RIZWAN
THE STATE OF JHARKHAND.
AND
IN THE MATTER OF
PADMA BARAIK
VERSUS
APPLICANT
AFFIDAVIT

IN THE SUPREME COURT OF INDIA
M.A. NO. OF 2024
IN
SPECIAL LEAVE PETITION (CRL.) NO. 8857/2023



IN THE SUPREME COURT OF INDIA**CRIMINAL APPELLATE JURISDICTION****M.A. No. _____ OF 2024****IN****SPECIAL LEAVE PETITION (CRIMINAL) No. 8857 OF 2023****IN THE MATTER OF:****DANISH RIZWAN @ MD. DANISH RIZWAN****PETITIONER****VERSUS****STATE OF JHARKHAND****RESPONDENT****AND IN THE MATTER OF:****PADMA BARAIK,
D/o SH. RAJENDRA BARAIK,
R/o H. No. 116, HARMU HOUSING COLONY,
PO- HARMU, PS- ARGORA, DISTRICT- RANCHI,
JHARKHAND- 834002.****APPLICANT****APPLICATION SEEKING IMPEADMENT****TO
THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF
SUPREME COURT OF INDIA****THE HUMBLE APPLICATION OF
THE APPLICANT ABOVE NAMED****MOST RESPECTFULLY SHOWETH:**

- 1.** That the Applicant by way of the present application is seeking impleadment as Party Respondent in the aforesaid Special Leave Petition (Crl.) No. 8857/2023 in the facts and circumstances mentioned hereinafter.
- 2.** That the brief facts leading to filing of the application are adumbrated herein as under;

3. That the Petitioner is a Scheduled Tribe residing in the State of Jharkhand. The Petitioner was born on 24.12.1984. On 31.03.1998, petitioner was taken away by one Basant Yadav. Thereafter, the Petitioner's father lodged a complaint and Basant Yadav was apprehended on 02.04.1998. Subsequently, the Petitioner's father and police of the concerned Police Station got the Petitioner's marriage solemnised with Basant Yadav. After one year of marriage, a son was born, named Manish Yadav. The Petitioner filed a complaint as well as case for maintenance against her husband, Basant Yadav.
4. That thereafter, the Petitioner obtained divorce from Basant Yadav and the custody of the son was given to Basant Yadav. Subsequently, on 08.06.2002, the Petitioner went to Daltonganj on asking of Basant Yadav to meet her son and the same day, she was raped by one Mohd. Ali and three other accused. Subsequently, Case No. 162/2002 under Section 376/34 read with Section 3(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered against Mohd. Ali and subsequently, he was apprehended and put on trial.
5. That thereafter, the Petitioner lodged an FIR against the Deputy Inspector General of Police, Jharkhand on 02.08.2005 under Section 376/376(2)(a) IPC and Section 3(1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

and on 03.08.2005 Case No. 304/2005 was registered. Thereafter, the Petitioner also lodged an FIR against the Inspector General of Police, Jharkhand and Sessions Trial No. 257/2006 was registered. Certain other criminal cases were also registered by the Petitioner against different persons, some of which were filed under Section 376 IPC. In the Sessions Trial Case No. 11/2006, the accused Mohd Ali was convicted on 15.02.2014 with 10 years RI.

6. That in the FIR lodged against the Deputy Inspector General of Police, final report was submitted which was accepted by the Court on 06.08.2007 and insofar as the FIR lodged against Inspector General of Police, the Sessions Judge acquitted the Inspector General of Police vide judgment & order dated 23.12.2017, against which criminal appeal has been filed in the Hon'ble High Court of Jharkhand. It is pertinent to mention that a criminal case was also lodged against the Petitioner.
7. That after divorce from her first husband, the Petitioner got married to one Rajesh Kujur with whom a son was also born. The Petitioner has also lodged Criminal Case being No. 56/2004 against her husband Rajesh Kujur which resulted in his acquittal.
8. That thereafter as the Petitioner's identity was disclosed by media and subsequently having faced discrimination by the society, the Petitioner filed a W.P. (C) No. 1352/2019 before this Hon'ble Court. This Hon'ble Court vide its final judgment & order dated 20.01.2021

disposed of the writ petition with the following observations & directions;

"27. In view of the foregoing discussion, we dispose of this writ petition with the following directions:

- (1) The Deputy Commissioner, Ranchi is directed to take measure to ensure that minor children of the petitioner are provided free education in any of the Government Institutions in District Ranchi where the petitioner is residing till they attain the age of 14 years.
- (2) The Deputy Commissioner, Ranchi may also consider the case of the petitioner for providing house under Prime Minister Awas Yojna or any other Central or State Scheme in which petitioner could be provided accommodation.
- (3) The Senior Superintendent of Police, Ranchi and other competent authority shall review the Police security provided to the petitioner from time to time and take such measures as deem fit and proper.
- (4) The District Legal Services Authority, Ranchi on representation made by the petitioner shall render legal services to the petitioner as may be deemed fit to safeguard the interest of the petitioner."

9. That subsequently, the Petitioner again filed W.P. (C) No. 1195/2021 before this Hon'ble Court seeking the following reliefs;

"a. Issue writ in the nature of public interest litigation directing the respondents to safeguard the universe, rivers and nature That, Most humbly and respectfully states and submits that the situation of incident of rape occurs to me and the same would not occurs in any other women of my country and Women be safe, Safety and live with full dignity by order of this Hon'ble Court of which highly obliged the same.

b. As this Hon'ble Court deems fit and proper in the interest of justice Women at large."

10. That this Hon'ble Court vide final order dated 13.12.2021 disposed of the petition with the following observations;

" The petitioner claims to have filed this writ petition for enforcement of the fundamental right under Article 21 of the Constitution. She is also in public interest espousing the cause of the fundamental right of the citizens of the country to live peacefully in a society free from crime, diseases deprivation and sorrow.

There can be no doubt that the State is under a duty to take requisite steps to protect environment, save nature and natural resources prevent and punish crime and ensure

that the right of citizens to live with dignity is not violated. These being the inherent duties, such duties necessarily have to be complied with. No specific order of this Court is required.

If the petitioner has any specific grievance of breach of any specific legal obligation of the State or is tortured or subjected to indignity or crime, she may approach the appropriate authorities/Court.

With the above observations, the writ petition is disposed of."

- 11.** That thereafter, on 13.12.2022, Danish Rizwan (Petitioner in the present SLP) along with the Petitioner's bodyguard Nazir Hussain attempted to murder the Applicant by firing two-gun shots at her. However, the Applicant luckily managed to escape the murder attempt on her by the said two persons.
- 12.** That subsequently, the Applicant filed FIR against the Petitioner relating to the aforesaid incident which got converted into Case No. 455/2022 P.S. Argora, Ranchi registered under Sections 324/326/307/34 IPC read with Section 27 of Arms Act. Thereafter, the Petitioner was arrested and was in custody since 06.01.2023.
- 13.** That being aggrieved by the aforesaid incarceration, the Petitioner filed B.A. No. 3111/2023 seeking regular bail before the Hon'ble High Court of Jharkhand at Ranchi. The Hon'ble High Court vide

order dated 14.06.2023 dismissed the said bail application with the following observations;

"Considering the nature of allegation and the materials available on record, I am not inclined to enlarge the applicant on bail, at this stage. Accordingly, the prayer for bail of the applicant is, hereby, rejected."

- 14.** That in the meanwhile, being aggrieved by inaction on part of the State, the Petitioner filed Contempt Petition (C) No. 278/2021. This Hon'ble Court vide final order dated 25.08.2023 disposed of the petition with the following observations;

"1. We do not find any reason to reopen the issue. In any case, we do not find any contempt in this matter. The statements made in the affidavit filed on behalf of the respondents are taken on record.

2. The Contempt Proceedings are disposed of."

- 15.** That being aggrieved by the aforesaid order, the Petitioner preferred SLP (Crl.) No. 8857/2023 before this Hon'ble Court. This Hon'ble Court vide order dated 21.09.2023 granted regular bail to the Petitioner with the following observations & directions;

"The petitioner seeks regular bail and he has been in custody for over nine months. The charge against him and two others is for having participated in an attack, by firing bullets on the victim/informant. The chargesheet in this case was filed on

29.03.2023. The principal piece of evidence against the petitioner is the statement of the co-accused implicating him; however that statement was later retracted; especially, the record does not disclose any supportive material corroborating the statement.

In these circumstances and having regard to the fact that the chargesheet has been filed, and, further more that the petitioner has already suffered incarceration for over nine months, he is hereby directed to be enlarged on bail, subject to such terms and conditions as the trial court may impose."

16. That it is submitted that after being enlarged on bail, the Petitioner has blatantly defied the bail conditions and is openly threatening the Applicant and the prosecution witnesses. The Petitioner accused is misusing his liberty by indulging in similar criminal activities. It is submitted that the Petitioner accused is interfering with the course of investigation by tampering the evidence. It is further submitted that the Petitioner accused is making himself scarce by going underground and thus, becoming unavailable to the investigating agency. The Petitioner is openly flouting the conditions of bail.
17. That in the aforesaid facts and circumstances, it is respectfully submitted that the order passed by this Hon'ble Court is affecting the Applicant herein. In the said circumstances, the Applicant is

filing the accompanying application seeking impleadment in the aforesaid petition.

18. That in view of the above, it is in the interest of justice that the Applicant herein is impleaded as a party Respondent to the aforesaid Special Leave Petition (Crl.) No. 8857/2023.
19. That it is respectfully submitted that the Applicant herein does not have any other efficacious remedy except to approach this Hon'ble Court by way of the present application.
20. That the present application is being filed bona fide and in the interest of justice.

PRAYER

It is, therefore, prayed that this Hon'ble Court may graciously be pleased to;

- a) permit the Applicant to be impleaded as party Respondent in Special Leave Petition (Crl.) No. 8857/2023; and/or;
- b) pass any such other and further order(s) as this Hon'ble Court may deem fit and proper in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE APPLICANT AS IN DUTY BOUND, SHALL EVER PRAY

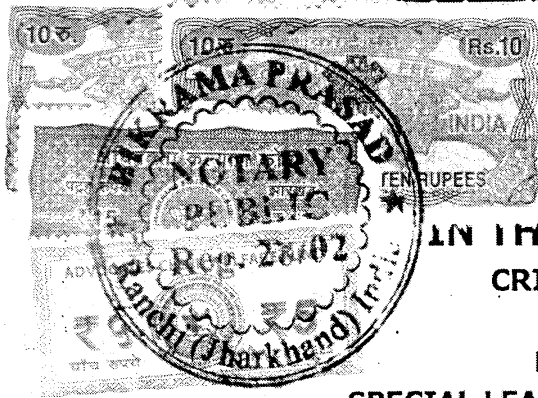
DRAWN & FILED BY:



DRAWN ON: 25.04.2024
FILED ON: 27.04.2024

[MRITUNJAY KUMAR SINHA]
Advocate-on-Record

27



IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

I.A. NO. _____ OF 2024 IN

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SPECIAL LEAVE PETITION (CRIMINAL) No. 8857 OF 2023

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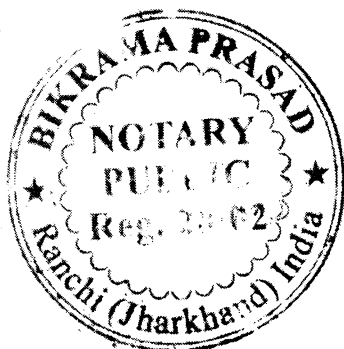
I, Padma Baraik, D/o Rajendra Baraik, aged about 36 years, R/o H. No. 116, Harmu Housing Colony, PO- Harmu, PS- Argora, District- Ranchi, do hereby solemnly affirm and state as under:

1. That I am the Applicant in the aforesaid case and as such, well conversant with the facts and circumstances of the present case, hence, competent to swear this affidavit.
2. That the contents of the accompanying application to the special leave petition [Paras 1 to 20] from [Pages 18 to 26], have been drafted by my Counsel on my instructions and having understood the same, I state that the contents of the same are true and correct to the best of my knowledge and belief. No part of the same is false and nothing material has been concealed therefrom.

पद्मा बरईक
DEPONENT

VERIFICATION:

Verified at Ranchi on this the _____ day of April, 2024, that the contents of my above affidavit are true and correct to the best of my knowledge and belief. No part of the same is false and nothing material has been concealed therefrom.



NOTARY PUBLIC, RANCHI

पद्मा बरईक
DEPONENT

25.4.2024
Ent-4009/199

Authorised under Notaries
Act, 1952 and Notaries Rules
1956 by Govt. of Jharkhand

Ref No. 553 Date 25 APR 2024