

कार्यालय:- जिला एवं सेशन न्यायाधीश, अजमेर

क्रमांक/स्था0/2021/ 31074-31076

दिनांक:-21/11/2021

प्रतिलिपि निम्नांकित :-

1. न्यायाधीश, विशेष न्यायालय लैंगिक अपराधों से बालकों का संरक्षण अधिनियम एवं बालक अधिकार संरक्षण आयोग अधिनियम न.01/02 अजमेर को सूचनार्थ एवं पालनार्थ प्रेषित है। आदेश की प्रति माननीय राजस्थान उच्च न्यायालय की वेबसाईट hcraj.nic.in से डाउनलोड की जावे।
2. सिस्टम ऑफिसर जिला न्यायालय अजमेर को जिला न्यायालय अजमेर की वेबसाईट पर अपलोड करने हेतु।

जिला एवं सेशन न्यायाधीश
अजमेर 2021-21.

No.Gen/XIX/Misc/1147/2021/2481

Dated 15 / 11 / 2021



From : Registrar General
Rajasthan High Court
Jodhpur

To : All the District & Sessions Judges

Sub. : Circulation of order dated 5/7/2021 passed by Hon'ble Rajasthan High Court in S.B.Criminal Misc.Bail Application No.9780/2021, Lalita Bai & Another Vs. State of Rajasthan.

Sir,

While enclosing herewith a copy of order dated 5/7/2021 passed by Hon'ble Rajasthan High Court in S.B.Criminal Misc. Bail Application No. 9780/2021, Lalita Bai & Another Vs. State of Rajasthan, I am under direction to request you to circulate the same amongst all the Special Courts dealing with POCSO Act in your Judgeship for information and compliance of the direction as directed by Hon'ble Court in said order.

Yours sincerely,

Encl.: As above.


REGISTRAR (ADMN.)

Date 17/11/2021
Sr. Munim/Sr. P.A./Ent./Acct./R.C./Steno


D J Ajmer

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Miscellaneous Bail Application No. 9780/2021

1. Lalita Bai Wife Of Ajay @ Ajab Singh, Aged About 40 Years, R/o Tejaji Ka Danda, Kishanganj, P.s. Kishanganj, District Baran (Raj). (At Present In District Jail, Baran).
2. Ajay @ Ajab Singh S/o Babu Lal, Aged About 42 Years, Resident Of Devri, P.s. Kasbathana, Distt. Baran, At Present R/o Tejaji Ka Danda, Kishanganj, P.s. Kishanganj, Distt. Baran (Raj). (At Present In District Jail, Baran).

----Petitioners

Versus

State Of Rajasthan, Through P.P.

----Respondent

For Petitioner(s)

Mr. Jagdish Nagar through V.C.

For Complainant(s)

Ms. Shalini Sheoran through V.C.

(Amicus Curiae)

For State

Mr. Riyasat Ali, PP

HON'BLE MR. JUSTICE PANKAJ BHANDARI

Order

05/07/2021

1. Petitioners have filed this bail application under Section 439 of Cr.P.C.

F.I.R. No. 263/2020 was registered at Police Station Kishanganj District Baran (Raj.) for offence under Sections 376(2)(n), 370(4) & 120-B of I.P.C. and Section 5(L)/6 & 16/17 of

Protection of Children From Sexual Offences Act, 2012.

It is contended by counsel for the petitioner that in the initial complaint, complainant stated that her mother and maternal aunt had taken Rs. 1,00,000/- & Rs. 50,000/- respectively, and has



प्रतिक्रिया

नव अतिरिक्त न्यायिक
रुध्र न्यायालय, फीट.
जायपुर

performed the marriage of the complainant. It is also contended that subsequently the complainant in her statement recorded under Section 164 Cr.P.C. has levelled allegations with regard to receipt of money against the petitioners.

4. It is further contended by counsel for the petitioner that the age of the prosecutrix, as per medical report, is between 17 to 18 years. As per the complainant, she was married and money was taken in lieu of marriage. It is also contended that the offence would not fall within the definition of trafficking, as family members of complainant are all illiterate and they have simply married their daughter. The siblings consists of nine children and complainant's father has already expired.

5. The amicus curiae appearing for the complainant contends that name of complainant and identity of child has been disclosed by the various Authorities including the Special Court which is contrary to Section 33 of the Protection of Children From Sexual Offences Act, 2012.

My attention has been drawn towards Section 33 (7) of POCSO Act. Further, it is contended that Section 228 (A) of the I.P.C. makes disclosure of identity of the victim, an offence.



राही - प्रतिनिधि is argued that the Authorities should be cautioned to follow the provisions of the POCSO Act, 2012 and not to disclose the identity of the child.

8. It is contended by counsel for the complainant that petitioners have sold the child and are not entitled to bail from the Court.

9. I have considered the contentions.

10. Section 33 (7) of the Act reads as under:-

"(7) The Special Court shall ensure that the identity of the child is not disclosed at any time during the course of investigation or trial:

Provided that for reasons to be recorded in writing, the Special Court may permit such disclosure, if in its opinion such disclosure is in the interest of the child.

Explanation.-For the purposes of this sub-section, the identity of the child shall include the identity of the child's family, school, relatives, neighbourhood or any other information by which the identity of the child may be revealed."

11. It is to be noted that in the explanation given under Section 33 (7) of the POCSO Act, the identity of the child shall include the identity of the child's family, school, relatives, neighbourhood or any other information by which the identity of the child may be revealed. From perusal of the charge-sheet, it is apparent that identity of the child has been disclosed. In view of Section 33 (7) of the Act, I, deem it proper to direct the Authorities who are dealing with the matter falling within the purview of the Act to ensure that the identity of the child is not disclosed. Special Court is also directed to henceforth abide by the provisions of the Act and ensure that the identity of the child is not disclosed.



सही प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
सहायक उच्च न्यायालय,
जयपुर

12. As far as merits of the case are concerned, considering the arguments advanced by counsel for the petitioners, I deem it proper to allow the bail application.

13. This bail application is accordingly allowed and it is directed that accused petitioners shall be released on bail provided each of them furnishes a personal bond in the sum of Rs.1,00,000/- (Rupees One Lac Only) together with two sureties in the sum of

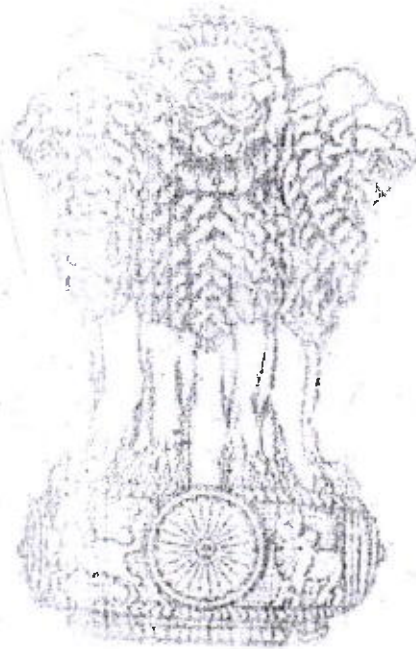
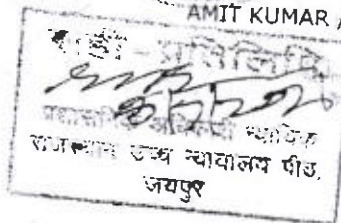
Rs.50,000/- (Rupees Fifty Thousand only) each to the satisfaction of the learned trial court with the stipulation that they shall appear before that Court and any court to which the matter is transferred, on all subsequent dates of hearing and as and when called upon to do so.

14. Registrar (Judicial) is directed to send copy of this order to all the Special Courts dealing with POCSO Act.



AMIT KUMAR /33

(PANKAJ BHANDARI),J



सत्यमेव जयते