

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.05 of 2022

Gagan Badatiya

.... ***Appellant***
Mr.S.S.Ray(2),Advocate

-versus-

State of Odisha and another

.... ***Respondents***
Mr.P.C.Das, A.S.C..

CORAM:

JUSTICE A.K. MOHAPATRA

Order No.

04.

ORDER
17.05.2022

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Appellant as well as learned Additional Standing Counsel.
3. This is an appeal filed under Section 14(A) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
4. The present appeal is directed against the order dated 20.12.2021 passed by the learned Additional Sessions Judge, Aska in rejecting the bail application of the appellant in connection with Sheragada P.S.Case No.258 of 2021 corresponding to G.R.Case No.28 of 2021 (Spl.Act) for alleged commission of offences under Sections 376(2)(n)/379/506 of the Indian Penal Code read with Section 3(2)(v) of SC & ST Act.
5. The prosecution case in brief is that the informant lodged a written report before the Police alleging that eight years back she got married to the present Petitioner in Jagannath Temple. It is also

alleged in the F.I.R. that after marriage both have kept physical relationship and the appellant took away a sum of Rs.70,000/- from her. On 26.11.2021 she came to know that the present appellant is going to marry another girl and when she asked about such marriage, the appellant abused her in obscene languages and threatened her to kill.

6. It is submitted by the learned counsel for the Appellant that the appellant is in custody since 30.11.2021 and the investigation has been completed and charge sheet has been submitted. He further contends that there is discrepancy in the evidence of the victim and the medical examination report and as the victim is working under the appellant and wages have not been paid as per demand, the appellant has been falsely implicated in this case. It is also submitted by the learned counsel for the appellant that since the appellant is an inhabitant of Ganjam district, there is no chance of his absconding or fleeing away from receiving justice and he undertakes to appear before the learned trial court on each date of posting

7. Learned Additional Standing Counsel on the other hand opposes the prayer for bail of the appellant on the ground that the allegation made in the F.I.R. is serious in nature. Therefore, the learned counsel for the State urges rejection of his bail application at this juncture.

8. Having heard learned counsel for the parties and keeping in view the surrounding circumstances of the present case and keeping in view the period of custodial detention of the appellant and other materials on record, this Court is inclined to release the appellant on bail and the appellant be released on bail in the aforesaid case subject to the appellant furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with two local solvent sureties each for the like amount to

the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions

- i) he shall appear before the concerned Police Station once in a fortnight preferably on Sunday between 10 A.M. to 1 P.M. till conclusion of trial.
- ii) shall cooperate with the trial of the case and shall appear in trial court on each and every date to which the case is posted.
- iii) shall not indulge in any offence of similar nature
- iv) shall not tamper with the prosecution evidence while on bail.
- v) shall not influence or threaten any prosecution evidence while on bail.
- vi) Violation of any of the terms and conditions shall entail cancellation of bail.

9. The impugned order dated 20.12.2021 passed by the learned Additional Sessions Judge, Aska in G.R.Case No.28 of 2021 (Spl.Act) is hereby set aside.

10. With the aforesaid observation the appeal is allowed without cost.

11. Issue urgent certified copy as per Rules.

RKS

(*A.K. Mohapatra*)
Judge