

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.08 of 2022

Md.Hmidullah @ Hamid

....

Appellant

Mr.Devashis Panda,*Advocate*

-versus-

State of Odisha

....

Respondent

Mr.K.K.Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

22.03.2022

Order No.

3. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the appellant as well as the learned Additional Standing Counsel.
3. Perused the Case Diary, F.I.R. and 161 Cr.P.C. statements as well as the social investigation report submitted by the District Probation Officer, Sundargarh.
4. The appeal is directed against the order dated 27.12.2021 passed by the learned Additional District Judge-cum-Children's Court, Sundargarh in Special G.R.Case No.534/40 of 2021 arising out of Kutra P.S. Case No.105 dated 08.09.2021.
5. The Prosecution case in brief is that on 08.09.2021 at about 12.05 P.M. the informant lodged a written report before the I.I.C., Kutra Police Station alleging that on 31.08.2021 at about 11 P.M. when the informant had been to attend call of nature at that time the CCL appellant dragged her to a mango garden which is situated

backside of the house of the informant and forcibly committed sexual intercourse without her consent and willingness. He also threatened the informant if she will disclose the fact. On the very next date i.e. on 01.09.2021 while the informant wanted to lodge an F.I.R. again he gave assurance to marry and accordingly the informant did not lodge F.I.R. and at last she lodged F.I.R. before the Kutra Police Station vide Kutra P.S.Case No.105 of 2021.

6. It is submitted by the learned counsel for the CCL appellant that the CCL is a minor, „m aged about 17 years and is languishing in custody since 21.10.2021. It is further submitted by the learned counsel for the CCL appellant that the investigation of the case is over and the Police has filed Charge Sheet in the meantime. It is also submitted that both the CCL and the victim were in love relationship. The CCL wanted to marry the victim, however the fact that CCL is a minor the marriage could not be taken place as a result of which the family of the victim has lodged this F.I.R. against the CCL appellant.

7. Perused the social investigation report submitted by the District Probation Officer, Sundargarh, wherein it has been stated that the financial condition of the CCL is not satisfactory and the condition of the family of the CCL is not good and the CCL is about 17 years only. It is further submitted in the said report that the CCL along with his family agrees for the marriage after being well settled. He appears to be first offender and he has no other criminal antecedents.

8. Learned counsel appearing for the State on the other hand submits that the nature of allegation is very serious against the CCL appellant. Therefore, he should be remained under proper observation and regular counseling be provided to the CCL appellant in the event this Court releases the CCL on bail.

9 Considering the aforesaid aspect and considering the age of the CCL appellant and the surrounding circumstances of the case and in view of the provisions contained under section 12 of the Juvenile Justice (Care and Protection of Children Act, 2015, this Court is inclined to release the CCL appellant on bail on furnishing a bail bond of Rs.20,000/- (Twenty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin of the matter by one of the parents of the CCL appellant . Further the terms and condition for release and safety of the CCL appellant shall be fixed by the learned Court in seisin over the matter which includes the District Probation Officer, Sundargarh shall visit once in a fortnight/month to enquire about the CCL appellant and submit a report to the Court in seisin over the matter and further necessary arrangement be made for regular counseling of the CCL appellant till he attains the age of majority.

10. With the aforesaid direction the impugned order is set aside. The appeal is accordingly allowed.

11. Issue urgent certified copy of this order as per Rules.

RKS

(A.K. Mohapatra)
Judge