

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.13 of 2022

Kalia alias Nityananda Pradhan ***Appellant***

Ms. Bharati Dash, Advocate

-versus-

State of Odisha and another ***Respondents***

Mr. M.K.Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

15.03.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an appeal under Section 14-A of the Scheduled Caster and Scheduled Tribes (Prevention of Atrocities) Act, 1989
3. The present appeal is directed against the order dated 21.12.20221 passed by the learned Special Judge, Angul in C.T.(Special) Case No.29 of 2021 arising out of Purunakote P.S. Case No.62 of 2021 thereby rejecting the bail application of the Appellant.
4. The prosecution story as unfolded from the F.I.R. in Purunakote P.S. Case No.62 of 2021 registered under Sections 302/34, I.P.C. is that the present Appellant along with other had abducted the brother of the informant on 22.05.2021 and assaulted him and brought his dead body in an Auto Rickshaw on 02.06.2021 and kept the body on the front corridor of his house and fled away.

Thereafter, the incident was reported by the informant, who is the brother of the deceased to the I.I.C. Purunakote Police Station. Accordingly, after registration of the F.I.R., the case was investigated and the body of the deceased was sent for post-mortem examination. Thereafter, the Appellant and other accused persons were arrested on 08.06.2021.

5. Heard learned Counsel appearing for the Appellant and Mr. M.K.Mohanty, learned Additional Standing Counsel for the State.

6. Despite valid service of notice on the Informant/Respondent No.2, none appears on behalf of the Informant/Respondent No.2 to oppose the bail application of the Appellant.

7. Learned Counsel appearing for the Appellant contended that the Appellant is innocent person and he is in no way involved in the present crime and that after his arrest in connection with the present case, he is languishing in jail custody since 08.06.2021. It is further submitted on behalf of the Appellant that there is no direct evidence linking the present Appellant with the alleged crime. Further he submitted that many witnesses have been examined in the case and none of the witnesses have spoken anything about the present Appellant. It is further stated that the accused/Appellant belongs to the locality having his residence in village Takasingha under Angul district and there is no scope for absconding or fleeing away from the hands of the justice.

8. Learned counsel for the State, on the other hand, submits that the alleged case under the provisions of the Indian Penal Code has been well made out against the present Appellant. In the said context, learned counsel for the State referred to the statement of some of the witnesses recorded under Section 161, Cr.P.C. by the Investigating Officer. He further submits that since the Appellant opposed the conduct of the deceased in protesting against the

Appellant and restraining them from capturing the deer in forest, the deceased was tied initially and thereafter assaulted and beaten to death.

9. Upon perusal of the case diary as well as statement of the witnesses and the depositions of such witnesses before the Court, this Court is of the considered opinion that there is no clear evidence till now as to who had assaulted the deceased. Therefore, the allegations made against the Appellant are omnibus in nature. It is further seen that some of the material witnesses, who have deposed before the Court have turned hostile. In any event, it is the duty of the trial court to arrive at any finding without being influenced by any observation made in this order.

10. Having heard learned counsels for the parties, upon perusal of the statements of the witnesses and their depositions and keeping in view the aforesaid facts and circumstances of the case, this Court is inclined to release the Appellant on bail by setting aside the impugned order dated 21.12.2021 passed by the learned Special Judge, Angul in the aforesaid case.

11. Hence, let the Appellant be released on bail on 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 conditions that:-

- i. The Appellant shall not tamper with the prosecution evidence while on bail;
- ii. he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever; and

- iii. he shall cooperate with the trial while on bail and shall not make any default in attending the court during trial on each date without fail;

Violation of any of the terms and conditions shall entail cancellation of bail.

12. With the aforesaid observation, the CRLA is disposed.

13. Urgent certified copy of this order be granted on proper application.

RKS

(*A.K. Mohapatra*)
Judge

