

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No. 18 of 2022

Sambaru Kabasi

....

Appellant

*Mr. Arjuna Charana
Behera, Advocate*

-Versus -

State of Odisha and others

....

Respondents

*Mr. S. Mishra,
Additional Standing Counsel*

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

01.11.2022

Order No.

4.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the appellant, learned counsel for the informant and learned counsel for the State.
3. It is submitted that even though the case was registered under Sections 3 (1)(f) and 3 (1)(g) of the SC and ST (PoA) Act along with offences of IPC, learned court below granted bail to the accused person by order dated 09.12.2021 without hearing the informant/victim as mandatory under Section 15-A(5) of the said Act.
4. A perusal of the impugned order reveals that learned court below has held that in spite of direction to the I.O. he could not produce the informant and that the dispute is apparently civil in nature and therefore considered the bail application in the absence of the informant/victim. Section 15-A (5) of the Act reads as follow:-

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“(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of

bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.”

5. This undoubtedly is a mandatory provision. It is well settled that when the law requires a thing to be done in a particular manner, the same has to be done in that manner or not at all. Clearly, learned Special Judge has committed an error in hearing the bail application despite absence of the informant/victim.

6. In such view of the matter, the impugned order cannot be sustained in the eye of law and is therefore set aside. Learned court below is directed to hear the bail application afresh after granting proper opportunity of hearing to the informant. However, considering the fact that the accused person has been released on bail, it could not be proper to direct cancellation of the same at this stage. He shall continue to be on bail till his bail application is finally disposed of by the court below.

7. The CRLA is disposed of.

(Sashikanta Mishra)
Judge