

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.33 of 2022

Rahul @ Braja Kishore Behera ***Appellant***
Mr. Ramesh Chandra Ojha, Advocate

-versus-

State of Odisha and another ***Respondents***
Mr.P.C.Das, ASC for State-Res. No.1

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
05.04.2022

Order No.

06. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Appellant, learned counsel for the State-Respondent No.1. Perused the Case Diary, F.I.R. Charge-Sheet and statement of the witness.
3. This appeal has been filed by the Appellant challenging the order dated 07.10.2021 passed by the learned District and Sessions Judge-cum-Special Judge, Jajpur, in C.T. Spl. Case No.86 of 2021, arising out of Binjharpur P.S. Case No.257 of 2019, for commission of alleged offences under Sections 342/506/363/376(2)(n) of I.P.C. r/w. Sections 3(1)(r)(s)/3(2)(v)(va) of S.C. and S.T. (Prevention of Atrocities) Act, 1989, rejecting the bail application filed by the Appellant.
4. The allegation as depicted in the FIR is that the complainant Manjulata Mallik lodged an FIR before the I.I.C., Binjharpur P.S. on

29.09.2019 alleging that on 23.09.2019 at 6 P.M. her elder daughter namely Lija Mallik aged about 17 years had been to the side river embankment for call of nature at that time her villager, namely, Indu Das, W/o.Late Gadadhar Das @ Keluni and Barju Roul, S/o.Purna Roul aged about 40 to 45 years who is a auto-driver suddenly rushed there from the back side of her daughter and took the victim from the auto and fled away from Chandabali side. Accused Keluni took the victim to her sister in laws house and confined the victim girl Lija Mallik in a room and the accused Barju kept physical relationship with her daughter and threatened for dire consequence. After two days the victim girl Lija Mallik was crying the nephew of Keluni rescued the victim and left at Charapada. Some person intimated the complainant that they rescued the victim girl. Thereafter the present FIR has been filed vide Binjharpur P.S. Case No.257 of 2019.

5. It is submitted by learned counsel for the Appellant that he is in jail custody since the date of his arrest, i.e. 10.06.2021. It is further submitted that the allegation of rape is false and medical report does not reveal any sign and symptom of such sexual intercourse. Both the Appellant and Informant belong to one village. Due to previous enmity, a false case has been foisted against him. Further the Appellant is a permanent resident of the area, so the chance of fleeing away from court of justice does not arise at all

6. Learned counsel for the State also opposes the bail of the Appellant on the ground that the allegation is very serious in nature and no leniency should be shown to the Appellant for grant of bail. It is also submitted that in case of release of the Appellant, stringent conditions may be imposed.

7. Considering the aforesaid facts and circumstances of the case and further considering the fact that Appellant is in jail custody since 10.06.2021, this Court sets aside the order dated 07.10.2021 passed by the learned District and Sessions Judge-cum-Special Judge, Jajpur, in C.T. Spl. Case No.86 of 2021, arising out of Binjharpur P.S. Case No.257 of 2019. It is further directed that let the Appellant be released on bail subject to furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with one solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following conditions:

- (i) He shall appear before the trial court on each and every date as fixed by the court;
- (ii) He shall appear before the I.O. on every fortnight preferably on Sunday at 10.00 A.M. to 1.00 P.M.;
- (iii) He shall not leave the jurisdiction of the concerned court without special permission;
- (iv) He shall not tamper with the prosecution evidence;
- (v) He shall not influence or threaten or terrorize any prosecution evidence and the informant or her family members in any manner whatsoever and cooperate in the investigation;
- (vi) He shall provide the present address and mobile number to the local police station, in the event of any change in the address or mobile number, the same shall also be intimated to the local police;
- (vii) Violation of any of the above conditions shall entail cancellation of the bail; and
- (viii) The trial court may impose any other condition(s), as deem fit and proper.

8. With the above direction, the CRLA is accordingly allowed.

9. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge

U.K.Sahoo

