

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.76 of 2022

Biki @ Biswajit Behera and others ***Appellants***
Mr.G.K.Mohanty, Advocate

-versus-

State of Odisha and another ***Respondents***
Mr.P.C.Das, A.S.C.
Mr.S.K.Das, Advocate for R-2.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

17.05.2022

Order No.

03.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Learned counsel for the appellants does not want to press this appeal in respect of appellant No.1. The appeal against Appellant No.1 stands dismissed. He is at liberty to move afresh.
3. Heard learned counsel for the Appellant Nos.2 to 6 s as well as learned Additional Standing Counsel and Mr.S.K.Das, learned counsel appearing for the Respondent No.2.
4. This is an appeal filed under Section 14 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
5. The present appeal is directed against the order dated 29.09.2021 passed by the learned Judge Special Court cum Additional Sessions Judge, Kamakhyanagar in C.T.(Spl) No.29 of 2021 in rejecting the bail application of the appellants in connection with Kamakhyanagar P.S. Case No.221 of 2021 corresponding to C.T.(Spl.) No.29 of 2021 for alleged commission of offences under

Sections 147,148,323,324,325,307,294,506/149 of the Indian Penal Code read with Sections 25 & 27 of the Arms Act & Section 3(1)(r) Section 3(2)(v) and Section 3(2)(va) of Schedule Casts and Schedule Tribe (Prevention of Atrocities) Act.

6. The prosecution case in brief is that on 16.06.2021 around 10 P.M. the younger brother of the informant Rajkishore along with Akash Nayak, Jitendra Nayak and Litu Nayak while were going by car bearing Regd.No.WB-26-R-7779 at that time the appellants along with other accused persons obstructed their car and pelting bomb. Thereafter the Respondent No.2 came to know that all the accused persons being armed with deadly weapon of offence like bomb, bullet, sword etc. arrived there and assaulted the informant's brother and Akash as a result of which the brother of the Respondent No.2 fell down and was taken to the district hospital. It is also revealed in the F.I.R. that since the physical condition of his brother deteriorated he was shifted to SCB Medical College at Cuttack.

7. It is submitted by the learned counsel for the Appellants that the appellants are languishing in jail custody since June, 2021 and after completion of investigation the Investigating Agency submitted charge sheet in this case. It is also contended by the learned counsel for the appellants that there was long standing dispute between the two groups and false implication of the appellants because of dispute cannot be ruled out. It also submitted by the learned counsel for the appellants that the injuries sustained by the injured are simple in nature. It is also submitted by the learned counsel for the appellants that the brother of Respondent no.2 is an antisocial person and was in the habit of picking of quarrel with local residents. It is also submitted by the learned counsel for the appellants that since the appellants are inhabitants of Dhenkanal district, there is no chance of

their absconding or fleeing away from receiving justice and they undertake to appear before the learned trial court on each date of posting

8. Learned Additional Standing Counsel on the other hand opposes the prayer for bail of the appellants and submits that the appellants are habitual offenders and most of the cases are related to S.C. & S.T.(POA) Act. Therefore, the learned counsel for the State urges rejection of his bail application at this juncture.

9. Having heard learned counsel for the parties and keeping in view the surrounding circumstances of the present case and the materials available on record and further keeping in view the period of custodial detention of the appellants this Court is inclined to release the appellant Nos.2 to 6 on bail and the appellant Nos.2 to 6 be released on bail in the aforesaid case subject to the appellants furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) each 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) they 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.

10. The impugned order dated 29.09.2021 passed by the learned Judge Special Court-cum-Additional Sessions Judge,

Kamakhyanagar n C.T.(Spl.) 29 of 2021 is hereby set aside.

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

12. Issue urgent certified copy as per Rules.

RKS

(A.K. Mohapatra)
Judge

