

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.77 of 2022

Biki @ Biswajit Behera and others ***Appellants***
Mr. Gopal Krushna Mohanty, Sr. Advocate

-versus-

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

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
28.06.2022

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Appellants and learned counsel for the State-Respondent No.1. Perused the Case Diary, F.I.R. Charge-Sheet and statement of the witness on record.
3. This appeal has been filed by the Appellants challenging the order dated 29.09.2021, passed by the learned Additional Sessions Judge-cum-Spl. Court, Kamakhyanagar in C.T. (Spl.) No.14 of 2021, arising out of Kamakhyanagar P.S. case No.78 of 2021, for commission of alleged offences under Sections 147/148/294/323/341/149 of I.P.C. read with Seciton 3(1)(r)(s)/3(2)(va) of S.C. /S.T. (POA) Act, rejecting the bail application filed by the Appellants.
4. The prosecution case, in brief, is that on 16.6.2021 around 7 P.M. while the informant was standing in a battle shop near the Govt. Girls. High School after returning from Bikram Colony to

Kamakhyanager Kalpana Chhack by his Yamaha motorcycle, the Appellant No.3 being armed with bhujali abused him by calling the name of his caste. Thereafter it is alleged that the appellants assaulted him by means of lathi, sword on his head, chest, hand and leg causing bleeding injuries on his head, hand and leg and thereafter when the informant's friend one Biswajit Nayak requested the appellants to leave the informant, suddenly the appellants also assaulted him. Further it is alleged that the appellants took away his bike, gold chain and watch.

5. It is submitted by learned counsel for the Appellants that they are in jail custody since the date of their arrest, i.e. 20.06.2021. Further, police after completion of investigation have filed charge sheet against the petitioners on 7.8.2021. It is further submitted by learned counsel for the Appellants that there is prima facie no material against the present appellants to make case. It is further submitted that the alleged injuries sustained by the Informant are simple in nature. It is further submitted that the accused persons belonging to local area and there is no chance for absconding or avoiding the trial of the case in the event released on bail.

6. Learned counsel for the State opposes the bail of the Appellants on the ground that serious allegations have been against the Appellants. Moreover, the present appellants have five criminal antecedents. Therefore, he submits that no leniency should be shown to the Appellants for grant of bail. It is also submitted that stringent conditions may be imposed on the Appellants, in the event of release on bail.

7. Considering the aforesaid facts and circumstances of the case and further considering the period of detention and also the fact that injuries are simple in nature, this Court sets aside the order 29.09.2021, passed by the learned Additional Sessions Judge-cum-Spl. Court, Kamakhyanagar in C.T. (Spl.) No.14 of 2021, arising out of Kamakhyanagar P.S. case No.78 of 2021. It is further directed that let the Appellants be released on bail subject to furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) each with one solvent surety each for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following conditions:

- (i) They shall appear before the trial court on each and every date as fixed by the court;
- (ii) They shall appear before the I.O. once in a fortnight preferably on Sunday at 10.00 A.M. to 1.00 P.M.;
- (iii) They shall not leave the jurisdiction of the concerned court without special permission;
- (iv) They shall not tamper with the prosecution evidence;
- (v) They shall not influence or threaten or terrorize any prosecution evidence and the Informant or his family members in any manner whatsoever and cooperate in the investigation;
- (vi) They 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

