

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.85 of 2022

Chandra @ Chandra Mohan Barik* *Appellant

Mr. Sarbeswar Behera, Advocate

-versus-

State of Odisha and another* *Respondents

Mr. K.K. Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
19.04.2022

Order No.

03.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an application under Section 14(A) of Schedule Caste and Scheduled Tribe (PoA) Act.
3. The present appeal is directed against the order dated 02.12.2021 passed by the learned Additional Sessions Judge-cum-Special Judge (Vigilance), Baripada in C.T. Case No.692 of 2021 arising out of Kaptipada P.S. Case No.202 of 2021 for alleged commission of offence under Sections 302/34, I.P.C. read with Sections 3(1)(r)(s)/3(2)(v) of the S.C. and S.T. (PoA) Act and subsequently charge-sheeted under Section 306 of the I.P.C.
4. Heard learned counsel for the Appellants as well as learned Additional Standing Counsel for the State-Respondents.
5. The prosecution case, as revealed from the F.I.R., is that F.I.R.

was registered under Section 302/34, I.P.C. and subsequently, the accused-petitioner has been forwarded to the court for commission of alleged offence under Section 302, I.P.C. A cursory glance of the statements of the complainant Balaram Sethi and ocular witnesses Budhia @ Budhiram Sethi being supported by the statements of the post occurrence witnesses recorded under Section 161, Cr.P.C. it is very well forthcoming that on being assaulted by the accused-petitioner on 24.05.2021 at about 6.00 P.M., the deceased sustained bleeding injuries on his person, who was subsequently shifted to the hospital at Udala on where he was referred to P.R.M. M.C.H, Baripada for his treatment where he breathed his last on 25.05.2021 at about 8.45 A.M. Besides, the inquest report prepared by the I.O. also reveals regarding the presence of multiple injuries on the cadaver of the deceased. Furthermore, the P.M. report as available in the record reveals that the M.O. conducting the autopsy on the cadaver of the deceased as reflected regarding the multiple external injuries on the scalp and other portions of the body and has opined the said injuries to be antemortem in nature and caused by hard and blunt trauma and friction against the blunt and rough surface or object. The death of the deceased occurred about 12 to 14 hours after the alleged assault on him. Regard being had to such tell-tale materials as available on record. Hence, this case.

6. Learned counsel for the appellant submits that the appellant is in custody since 25.07.2021 and after completion of investigation, charge-sheet has been submitted. Learned counsel for the appellant submits that the Appellant has been falsely implicated in this case and he is no way connected in the alleged offence. He also submits that there is no scope for absconding or fleeing from the hands of the

justice and that the appellant is a local man.

7. Further, learned counsel for the appellant submits that in a intoxicated state, the deceased abused the appellant in filthy languages and the appellant told him that to stop the filthy languages. Thereafter, the deceased came assault the deceased, there was push and pull. At last, the deceased went to his house and after sometime, he was taken to hospital where the treating doctor declared dead.

8. As per Post-mortem report, all the external injuries, abrasions on the body of the deceased caused by fist blows dealt by the appellant. However, there is no internal injury on the body of the deceased.

9. Learned counsel for the State-Respondent, on the other hand, submits that the deceased in drunken state the deceased abused the appellant in filthy languages. He further submits that considering the gravity of offence and seriousness of the allegation, the prayer for bail at the behest of the appellant may be rejected.

10. Mr. Balaram Sethi, son of the deceased appears in persons in Court today and objected the prayer for bail of the appellant and he also stated that his life is in danger.

11. Having heard learned counsel for the Appellant as well as learned Additional Standing Counsel for the State-Respondent and considering the nature of accusation, seriousness, materials available on record, charge-sheet submitted for the offence under Section 306 of the I.P.C. and the gravity of offence as well as custodial detention of the Appellant, I am inclined to release the appellant on bail. Accordingly, the impugned order dated 02.12.2021 passed in CRLA No.85 of 2022 is hereby set aside.

12. Let the Appellant be released on bail in the aforesaid case subject to furnishing a bail bond of Rs.30,000/-(rupees thirty thousand) with two local sureties for the like amount to the satisfaction of the learned court in seisin over the matter subject to conditions that:-

- I. Petitioner shall not be involved in any offence of similar nature,
- II. he shall not tamper with the prosecution evidence or try to threaten or influence or terrorize the witnesses or family member of the deceased in any manner whatsoever.
- III. he shall not indulge any criminal offence while on bail; and
- IV. he shall not make any default in attending the court during trial on each date.

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

13. It is open for the court in seisin over the matter to impose other conditions may deem just and proper.

14. With the aforesaid observation, the Appeal is allowed without any cost.

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

(A.K. Mohapatra)
Judge