

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.90 of 2022

Ratan Sanjay

....

Appellant

Mr. B.R. Tripathy, Advocate

-versus-

State of Odisha

....

Respondent

Mr. P.C. Das, ASC

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

29.03.2022

Order No.

03

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned counsel for the State.
3. The present appeal has been filed challenging the order dated 12.01.2022 passed by the learned Additional Sessions Judge-cum-Presiding Officer, Children's Court, Boudh in Special Case No.02 of 2021(PCR) arising out of Boudh P.S. Case No.209 of 2021 thereby while dismissing the application for bail of the appellant/juvenile conflicts with law.
4. Learned counsel for the appellant submits that the appellant is languishing in jail custody since the date of his arrest, i.e. 30.08.2021 and the investigation concluded and charge-sheet has been submitted.
5. Learned counsel for the appellant further submits that the appellant is a juvenile and he has been falsely implicated in the

present case. It is also submitted that there is no other criminal antecedents and there is no chance of absconding of the appellant and that taking into account his period of detention, he may be released on bail.

6. Learned counsel for the State, on the other hand, contended that the contraband articles was seized from the possession of the petitioner and therefore, in view of the bar under Section 37 of the N.D.P.S. Act, the appellant is not entitled to be released on bail.

7. The legislature has provided for the juvenile to be extended special care, treatment, development and rehabilitation. The Juvenile Justice (Care and Protection of Children) Act, 2015 (hereafter '2015 Act') contemplates total separation of juveniles from the mainstream offenders. Both the Acts, viz., 2015 Act and N.D.P.S. Act are special Acts passed by the Parliament and contain non-obstane clauses having overriding effect in the bail matters but the juveniles having been given special place in the scheme of things, section 12 of the 2015 Act overrides the provisions under Section 37 of the N.D.P.S. Act in the case of a person who is a juvenile.

8. Considering the submissions made by learned counsel for the appellant, the provision under Section 12 of the 2015 Act, the period of detention of the appellant in the Observation Home and absence of any material that while on bail the appellant is likely to come in association with any known criminal or will be exposed to moral, physical or psychological danger or his release would defeat the ends of justice, I am inclined to release the appellant on bail.

9. Accordingly the appellant is directed to be released on bail on his father or any family member executing personal bond for a

sum of Rs.20,000/-(rupees twenty thousand) with two solvent sureties each of the like amount to the satisfaction of the learned Additional Sessions Judge-cum-Presiding Officer. Children's Court, Boudh and also on filing an affidavit by such family member before the concerned Court to the effect that:-

- I. The petitioner shall be responsible for the well-being of the appellant;
- II. he shall ensure that the appellant does not fall into bad company; and
- III. he shall ensure the presence of the appellant before the learned Additional Sessions Judge-cum-Presiding Officer. Children's Court, Boudh on each date when the case would be posted for inquiry.

10. With the aforesaid observation, the impugned order dated 12.01.22 passed by the Additional Sessions Judge-cum-Presiding Officer. Children's Court, Boudh in the aforesaid case is set aside.

11. The CRLA is accordingly allowed.

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

(A.K. Mohapatra)
Judge