

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.75 of 2021

Narendra Kumar Sahu

.... ***Appellant***
Mr. D. Panda, Advocate

-versus-

State of Odisha & Another

.... ***Respondents***
Miss. Samapika Mishra, ASC
Mr. D.K. Patra, Advocate (R.2)

CORAM:
MR. JUSTICE D.DASH

ORDER
21.10.2022

Order No.

03. 1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. The Appellant, by filing this appeal, under section 14-A(2) of the SC & ST (POA) Act, 1989 read with section 439, Cr.P.C., 1973 has prayed for his release on bail in Special C.T. Case No.09 of 2017 pending trial in the Court of the learned Sessions Judge, Deogarh for offences punishable under sections 363,366,376(2)(n),302,394,201,34/120-B, I.P.C. read with section 3(1)(w)(i)/3(2)(v)(v-a) of the S.C. & S.T. (POA) Act and section 6 of the POCSO Act. It may be stated here that on an earlier occasion, the prayer for grant of bail had been rejected by order dated 20.08.2018.
3. Mr. Debashis Panda, learned counsel for the Appellant submits that the Appellant although is in custody since 19.05.2017 as against the cited 37 number of prosecution witnesses only four have been examined. He further submits that last witness was examined as P.W.4 on 08.03.2018

whereafter there has been no further progress in the trial and thus the Appellant is languishing in custody. He also submits that on a bare reading of the depositions of the witnesses so far examined which includes two star witnesses for the prosecution, the factum of commission of offence under section 376(2)(n), I.P.C. does not surface. He submits that on careful reading of the evidence and simultaneously going through the materials collected in course of investigation, the Appellant has very good grounds to urge that the charges are not made out against him. In view of the above, he urges for reconsideration of the matter relating to the grant of bail to the Petitioner.

4. Learned counsel for the State opposes the move citing the depositions of the witnesses, which includes the mother and younger brother of the deceased (P.W.2 and 4). She further submits that the Trial Court after careful consideration of the materials has rightly rejected the prayer for grant of bail to the Petitioner. According to her, it is not a fit case for grant of bail as has been prayed.

5. Mr. D. Patra, learned counsel for the Respondent No.2 submits that the stage is too premature to take a view with regard to the establishment/non-establishment of the charges against the Petitioner and it is also not so permissible in this matter of consideration of grant of bail to the Petitioner. He further submits that the Petitioner while in custody when had been brought before the Court on the date of the trial had threatened the P.W.4 and for that F.I.R. having been lodged, the case is running against the Petitioner. He submits that keeping in view manner in which the offence is said to have been committed and the role attributed to the Petitioner grant of bail

to him would not be in the interest of justice as it is likely to interfere the trial.

6. Considering the submissions made and on going through the materials as placed; further taking into account the surrounding circumstances especially the long period of detention of the Appellant in custody and non-conclusion of the trial to the sufferings of the Petitioner as well as his family members; this Court at this stage while being not inclined to grant bail to the Petitioner on merit; feels inclined to grant interim bail to the Petitioner. Accordingly, it is directed that the Petitioner be released on interim bail for a period of six weeks from the date of his actual release from custody on such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that he will appear in person before the trial court on the date fixed during the period; will not indulge in any criminal activity; will not terrorize or threaten the prosecution witnesses already examined as also those are yet to be examined; will appear in person before the IIC, Deogarh P.S. every Monday in between 10 am to 2 pm and will surrender before the said court after expiry of the period of interim bail without fail.

7. The CRLA is accordingly disposed of.

Issue urgent certified copy as per rules.

(D. Dash)
Judge