

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.130 of 2022

Pratap Pradhan

..... Appellant
Ms. Deepali Mahapatra, Advocate

-versus-

State of Odisha and another

..... Respondents
Mr.K.K. Nayak, ASC for State-Respondent No.1
None for the Respondent No.2

**CORAM:
JUSTICE A.K.MOHAPATRA**

ORDER
10.05.2022

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Appellant and learned counsel for the State-Respondent No.1. None appears for the Respondent No.2 in spite of service of notice. Perused the Case Diary, F.I.R. Charge-Sheet and statement of the witness on record.
3. This appeal has been filed by the Appellant challenging the order dated 13.01.2022, passed by the learned Additional District and Sessions Judge-cum-Special Court under the POCSO Act, Phulbani in C.T. No.77(A) of 2016, arising out of Khajuripada P.S. Case No.51 of 2016, for commission of alleged offences under Sections 363/366-A/342/506/34 of I.P.C., r/w. Section 3(2)(v) of the S.C. and S.T. (P.A.) Act, 1989, rejecting the bail application filed by the Appellant.

4. The prosecution case, in a nutshell, is that on 23.06.2016, the Informant lodged an FIR in the Khajuripada Police Station, Kandhamal, alleging therein that on 20.05.2016 at about 123 O'clock night while the Informant had gone for attending the call of nature, at that time the accused, namely, Gopabandhu Pradhan suddenly came there from her back side and took away her for few distance after gagged towel on her mouth and put her in an auto rickshaw in which his associates brothers were present earlier. They took her to an unknown place and kept her in a house for three days. When she asked about the kidnapping, they threatened to kill her. Out of fear, she remained silent and the principal accused- Gopabandhu forcibly committed raped on her and took photographs in his mobile. Subsequently said Gopabandhu Pradhan left her in the village Sudrukumpa under Sadar P.S. Thereafter, the brother of the Informant rescued her. She could not disclose about the fact before the police due to shame. Thus a case was registered vide Khajuripada P.S. Case No.51 of 2016 on the above offences.

5. It is submitted by learned counsel for the Appellant that he is in jail custody since the date of his arrest, i.e. 13.11.2021. It is further submitted that the investigation of the case is over and police has submitted charge-sheet in the meantime. It is further submitted by learned counsel for the Appellant that the victim girl has been examined in this case. Copy of the deposition of the victim girl has been annexed to the Bail Application under Annexure-3. Paragraph- 2 and 3 of the deposition, the victim girl has categorically stated that the accused persons, namely, Firoze, Pratap and Chaitanya went away leaving the victim girl in the house and the accused, Gopabandhu committed rape trice in the room.

6. Considering the deposition of the victim that the present Petitioner is not the principal accused even though he is an accused in the crime, his crime has to be determined. It is submitted by learned counsel for the Appellant that he belongs to the local area, therefore, there is no chance of absconding the trial of the case in the event release on bail.

7. Learned counsel for the State opposes the bail of the Appellant on the ground that serious allegation has been made against the Petitioner. Even though one Gopabandhu has committed rape on the victim girl, but the present Appellant is a co-accused in the matter. Accordingly, he urges rejection of the bail application.

8. Considering the aforesaid facts and circumstances of the case and the period of detention of the Appellant and also the fact that charge-sheet has already been filed in the mean time, this Court sets aside the order dated 13.01.2022, passed by the learned Additional District and Sessions Judge-cum-Special Court under the POCSO Act, Phulbani in C.T. No.77(A) of 2016, arising out of Khajuripada P.S. Case No.51 of 2016. It is further directed that let the Appellant be released on bail subject to furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with two solvent sureties for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following conditions:

- (i) He shall appear before the trial court on each and every date as fixed by the court;
- (ii) He shall appear before the I.O. once in a fortnight preferably on Sunday at 10.00 A.M. to 1.00 P.M.;
- (iii) He shall not leave the jurisdiction of the concerned court without special permission;

(iv) He shall not tamper with the prosecution evidence;

(v) He shall not influence or threaten or terrorize any prosecution evidence and the Informant or her family members in any manner whatsoever and cooperate in the investigation;

(vi) He 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.

9. With the above direction, the CRLA is accordingly allowed.

10. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge