

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.89 of 2022

Chandan Lohar

....

Petitioner

Mr. Arijeet Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

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

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

21.04.2022

Order No.

01. 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. Perused the case records.
3. This criminal revision application has been filed by the Petitioner challenging the order dated 04.02.2022, passed by the learned Sessions Judge-cum-Special Judge, Keonjhar in Crl. Appeal No.02 of 2022, confirming the order passed by the learned Principal Magistrate, Juvenile Justice Board, Keonjhar in JJC No.09 of 2021, rejecting the bail application of the Petitioner/CCL.
4. The case of the prosecution as per the FIR is that on 22.01.2021, the Bolero of the Informant and one Auto Rickshaw collided with each other in front of the office of the Informant. Thereafter there was a quarrel between the two groups and it is alleged that after some time, Petitioner and others being armed with deadly weapons came to the spot and assaulted the staff of the Informant and during such incident, one of the staff of the Informant

died. Upon these allegations, the present FIR is lodged against the Petitioner and others before the Joda Police Station vide Joda P.S. Case No.30 of 2021 for commission of alleged offences under Sections 302/34 of IPC.

5. It is submitted by learned counsel for the Petitioner that after being implicated in the case, the Petitioner applied for bail before the PMJJB, Keonjhar, as he is a juvenile, which was subsequently rejected by the court below on 04.01.2022. Petitioner then preferred appeal before the learned Sessions Judge, Koraput, who vide its order dated 04.02.2022 confirmed the order of the PMJJB, Keonjhar. It is submitted that Section 12 of the Act has not been strictly followed by the learned Sessions Judge. Further, it is submitted that Petitioner has not been named in the FIR and the report of the Probation Officer supports the case of the Petitioner. But the Children's Court without looking into the materials available on record, confirmed the order of the PMJJB, Keonjhar, which is unjust, improper and illegal and the same is required to be set aside by this Court.

6. Learned counsel for the State, per contra, submits that Petitioner was present at the spot, however he submit that it is difficult to say at this stage as to who has assaulted the deceased. He submits that the charge-sheet has been filed in the case. Further, it is stated that the incidence recorded in the CCTV footage required to be verified by the local police.

7. Considering the facts and circumstances of the case and keeping in view the materials available on record and also taking into consideration the custodial detention of the Petitioner/CCL, this

Court is inclined to release the Petitioner/CCL subject to the Parent's of the Petitioner/CCL furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with one solvent surety for the like amount, preferably, one of the Parent will have to come forward and stand as surety to the satisfaction of the learned court in seisin of the matter.

8. Learned court below is further directed to fix the terms and conditions keeping in view the safety and welfare of the Petitioner/CCL. The Parents of the Petitioner/CCL shall also furnish an undertaking to the effect that the Petitioner shall not get involved in any criminal activities and they shall render proper counseling and keep the CCL under supervision. The Probation Officer is directed to interact with the Petitioner/CCL and report to the court in seisin over the matter once in every month. Accordingly, the impugned order dated 04.02.2022, passed by the learned Sessions Judge-cum-Special Judge, Keonjhar in Crl. Appeal No.02 of 2022 is set aside.

9. CRLREV is accordingly allowed.

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

(A.K. Mohapatra)
Judge