

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.102 of 2021

Ghana Shyam Sahu @ Bulu **Appellant**
Mr. Rabindranath Prusty, Advocate

-versus-

State of Odisha and another **Respondents**
Mr. P.C. Das, ASC for State-Respondent No.1
None appears for Informant

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
12.04.2022

Order No.

05. 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 Informant in spite of service of notice. Perused the Case Diary, F.I.R. and statement of the witness.
3. This appeal has been filed by the Appellant challenging the order dated 22.12.2020 passed by the learned Sessions Judge, Jharsuguda, in C.T. (Special) Case No.65 of 2020, arising out of Badmal P.S. Case No.188 of 2020, for commission of alleged offences under Sections 417/493/376(2)(n)/506 of I.P.C. and Sections 3(1)(r)/3(2)(v)(va) of the S.C. & S.T. (POA) Act, rejecting the bail application filed by the Appellant.

4. The case of the prosecution, in a nutshell, is that one Banita Naik lodged an F.I.R. in Badmal Police Station, Inter alia alleging therein that she used to reside with her mother and brother in her maternal grandfather's house from her childhood. The house of her maternal grandfather is situated adjacent to the residence of one Jugesh Panigrahi who had let out his house to one Kailash Garia. The further allegations of the Informant is that both Informant and the Appellant had free access to the residence of Kailash Garia and both of them had met each other there and the relationship between them started there and such relationship had given rise to the love relationship. The further allegation of the Informant is that the Appellant had kept physical relationship with the Informant in Amar Lodge at Jharsuguda and he had also intimate relationship with her in other place giving assurance of marriage. But it is further alleged that in the subsequent stage, the Appellant refused to marry her on the grounds that she belongs to S.T. category "Ganda" by caste and on the other hand the Appellant belongs to general category.

5. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since the date of his arrest, i.e. 20.10.2020. The police after completion of investigation submitted charge-sheet. It appears that the trial is not likely to be commenced in the meantime. It is further submitted by learned counsel for the Appellant that the victim is a minor girl and had intimate relationship with the Appellant on the pretext of marriage. Since the marriage did not take place, FIR was lodged against the Appellant to take revenge. It is further submitted that since Appellant is a local

person, there is no chance of absconding the process of law in the event of release on bail.

6. Learned counsel for the State on the other hand submits that the allegations are very serious in nature, therefore no leniency should be shown to the Appellant even though it may be a consensual sex.

7. Having heard learned counsel for the parties and considering the surrounding circumstances and the nature of allegation and the fact that victim is a major girl and the period of detention involved in the case, this Court is inclined to release the Appellant on bail on furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with one local surety for the like amount to the satisfaction of the learned court in seisin of 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 not tamper with the prosecution evidence;
- (iii) He shall not influence or threaten any prosecution evidence and cooperate with the investigation;
- (iv) He shall not make any attempt to reach out or contact the victim girl in any way;
- (v) Violation of any of the above conditions shall entail cancellation of the bail.

8. In view of the above, the order dated 22.12.2020 passed by the learned Sessions Judge, Jharsuguda, in C.T. (Special) Case No.65 of 2020, arising out of Badmal P.S. Case No.188 of 2020 is

hereby set aside. It is further directed that the bail of the Appellant is subject to compliance of above conditions only.

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

U.K.Sahoo

