

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.151 of 2022

Sudhansu Sekhar @ Pinku ***Appellants***
Mohapatra and another

Mr. D.P. Dhal, Sr. Advocate

-versus-

State of Odisha and another ***Respondents***

Mr. K.K. Nayak, A.S.C.
Mr. B. Pr. Das, Advocate for the
Respondent No.2

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

19.04.2022

Order No.

11.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an application under Section 14(A) of Schedule Caste and Scheduled Tribe (PoA) Act.
3. The present appeal is directed against the order dated 04.02.2021 passed by the learned Special Judge, Jajpur in C.T. (Special) Case No.134 of 2020 arising out of Jajpur Sadar P.S. Case No.261 of 2020 for alleged commission of offence under Sections 302/34, I.P.C. read with Sections 3 (2)(v) of the S.C. and S.T. (PoA) Act.
4. Heard learned counsel for the Appellants as well as learned Additional Standing Counsel for the State-Respondents.
5. The prosecution case, as revealed from the F.I.R., is that F.I.R. was lodged by the brother of the deceased, who has not claimed to have

seen the occurrence. However, in the F.I.R., he has mentioned the name of all the accused persons, including the present petitioners with the allegation that they forming a group assaulted his brother and left him in serious condition. Admittedly, the brother of the informant having been seriously injured, was shifted to hospital where the doctor declared him dead. The statement of the witnesses recorded under Section 161, Cr.P.c. clearly reveals that the present two accused persons along with others, due to previous enmity, assaulted the deceased by using Lathis. There is direct evidence of the involvement of the accused persons in this case. Besides on the basis of the statement of the accused persons recorded under Section 27 of the Evidence Act, the weapons of offence i.e. five numbers of bamboo lathi were seized. It clearly reveals that the accused persons having caused several injuries on the person of the deceased, left the spot while the people of the locality arrived at there. Therefore, it cannot be said that the intention of the accused persons was only to cause hurt to the deceased. the offence under Section 302 of the I.P.C. is punishable with death or imprisonment of life and. Hence, this case.

6. Learned counsel for the appellants submits that the appellants are in custody since 25.12.2020 and after completion of investigation, charge-sheet has been submitted. Learned counsel for the appellants submits that the appellants have been falsely implicated in this case. He further submits that there is a dispute between two groups and they were not pulling well. The deceased belongs to a particular group and while he had been to attend the call of nature, the group of the appellants caught hold the deceased and assaulted him by means of lathis, sticks, as a result of which the deceased sustained injuries. Further learned counsel for the appellants submits that there is no injury on the vital organ of the deceased. He further submits that after the

occurrence, the deceased was taken to hospital and while undergoing treatment he died. Relying upon the statement of the witnesses, learned counsel for the appellants submits that there was no intention of the appellants for committing the alleged acts and that they have not used weapon of offence in the alleged occurrence.

7. Further, learned counsel for the appellants submits that the allegations are omnibus in nature. It is difficult to point out that on which ground of dispute, the appellants assaulted the deceased mercilessly and there is dispute between the two groups of the villagers and at this juncture, it is also difficult to ascertain that on which injuries caused by assault to death. He further submits that the appeal may not be concluded in near future and there is no scope for absconding or fleeing from the hands of the justice and that the appellants are local men.

8. Learned counsel for the State-Respondent, on the other hand, submits that the assault was made by the two groups of the villagers including the appellants which caused death of the deceased and as such, the death of the deceased is serious in nature and no leniency should be shown to the appellants. He further submits that considering the gravity of offence and seriousness of the allegation, the prayer for bail at the behest of the appellants may be rejected.

9. Learned counsel for the Respondent No.2 submits that the appellants and with the group of their supporters assaulted the deceased, who succumbed to death and he opposes the prayer of bail of the appellants.

10. Having heard learned counsel for the Appellant as well as learned Additional Standing Counsel for the State-Respondent and considering the nature of accusation, seriousness, materials available on

record and the gravity of offence as well as custodial detention of the Appellants, I am inclined to release the appellants on bail. Accordingly, the impugned order dated 04.02.2021 passed in CRLA No.151 of 2022 is hereby set aside.

11. Let the Appellants be released on bail in the aforesaid case subject to furnishing a bail bond of Rs.30,000/-(rupees thirty thousand) each with two local sureties each for the like amount to the satisfaction of the learned court in seisin over the matter subject to conditions that:-

- I. Appellants shall not be involved in any offence of similar nature;
- II. they shall not tamper with the prosecution evidence or try to threaten or influence or terrorize the witnesses or family member of the deceased in any manner whatsoever;
- III. they shall not indulge any criminal offence while on bail; and
- IV. they shall not make any default in attending the court during trial on each date.

Violation of any of the terms and conditions shall entail cancellation of bail.

12. It is open for the court in seisin over the matter to impose other conditions may deem just and proper.

13. With the aforesaid observation, the Appeal is allowed without any cost.

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

(A.K. Mohapatra)
Judge