

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No. 160 of 2022

Rajin @ Rajendra Sahu @ Babua

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Appellant

Mr. A.K. Jena, Adv.

on behalf of Mr. S.K. Panda, Adv.

Vs.

State of Odisha & Another

.....

Respondents

Mr. S.S. Pradhan, A.G.A

For Opp. Party No.1

CORAM:

JUSTICE SAVITRI RATHO

ORDER

28.09.2022

Order No.

06.

CRLA No. 160 of 2022 & I.A. No.1446 of 2022

(Through hybrid mode)

1. Mr. S.S. Pradhan, learned Addl. Govt. Advocate for the State has produced the copy of the instructions dated 26.09.2022 along with a memo sent by the I.I.C., Paikmal Police Station regarding health condition of the father of the appellant which indicates that he is suffering from old age weakness and was suffering from viral fever. His middle son along with the family members and the wife Sakuntala are staying in the house and looking after him. The same be kept on record.

2. Hence there is no necessity to release the petitioner on interim bail at present to look after the treatment of his father. I.A.No.1446 of 2022 is accordingly dismissed.

3. The appeal has been filed under Section- 14 of S.C. & S.T. (Prevention of Atrocities) Act, challenging the order dated 10.02.2022, passed by the learned Addl. Sessions Judge -cum- Special Judge, Padampur in connection with Paikmal P.S. Case No.235 of 2019 corresponding to Special G.R. Case No.06 of 2020

rejecting the prayer for bail of the Appellant who is facing trial alongwith others for commission of offences punishable under Sections 302/201/376-D/120-B/34 of the I.P.C. read with Section 3(1)(r)/3(1)(s)/3(2)(va) /3(2)(v) of the SC & ST (PA) Act, 1989.

4. The earlier prayer of the appellant for bail had been dismissed as withdrawn vide order dated 21.12.2021 passed in CRLA No. 214 of 2020.

5. Pursuant to issue of notice, the informant-respondent no.2 Dhanurja Endja has appeared though video conferencing mode on 19.09.2022 from the Paikmal Police Station duly identified by Mr. Biswajit Monobadha, I.I.C., Paikmal Police Station and objected to the prayer for bail and also stated that his life will be at risk if the appellant is released on bail.

6. Mr. A.K. Jena, learned counsel appearing on behalf of the Appellant submitted that the appellant is in custody since 07.01.2020 since most of the witnesses examined in the trial including the parents of the deceased have not supported the prosecution case, the appellant may be released on bail. He had filed the depositions of witnesses 1 to 23 and submitted that P.W.2 to P.W.21 had been cross-examined under Section 154 of the Evidence Act and as they did not support the prosecution case, the appellant deserves to be released on bail. The relevant portion of the contradictions in their statements recorded under Section 161 Cr.P.C. have been marked as Ext.P/3 to Ext.P/25 respectively but as these Exts. did not form part the depositions, the same had been called for from the learned trial Court and have been received. I have perused the same. Learned counsel also submits that the DNA reports profile generated from the vaginal swab of the deceased implicates the other two accused

persons who are in custody and not the appellant, for which he should be released on bail.

7. Mr. S.S. Pradhan, learned Addl. Govt. Advocate for the State opposes the prayer for bail stating that the appellant was carrying on a relationship with the deceased even after his marriage and when she insisted that she marry him, he conspired with the co-accused persons and she has been raped before she was killed. As one of the offences for which the appellant is facing trial is one under Section 376-D of IPC, non-detection of his DNA in the vaginal swab of the victim is of not of much consequence. He further submits that many witnesses are still to be examined, hence the prayer for bail deserves to be rejected.

8. Considering the fact that the trial has proceeded and almost half the witnesses have been examined, I do not fit it proper to consider the evidentiary value of the depositions of the witnesses examined so far, as it may influence the learned trial Court.

9. I therefore dispose of the Criminal Appeal requesting the learned trial Court to make endeavour to dispose of the appeal expeditiously, preferably within a period of six months.

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

11. Copy of this order be sent to the learned Addl. Sessions Judge -cum- Special Judge, Padampur by the Registry.

Sukanta

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(SAVITRI RATHO)
JUDGE