

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.167 of 2022

Susanta Kumar Nayak

....

Appellant

Mr.Sidhant Kumar Jena,Advocate

-versus-

State of Odisha and another

....

Respondents

Mr.P.C.Das, A.S.C..

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

10.05.2022

Order No.

04.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Appellant as well as learned Additional Standing Counsel.
3. This is an appeal filed under Section 14(A)(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
4. The present appeal is directed against the order dated 02.11.2021 passed by the learned Sessions Judge-cum-Special Judge, Koraput in rejecting the bail application of the appellant in connection with Jeypore Mahila P.S.Case No.27 of 2019 corresponding to T.R.Case No.77 of 2020 pending in the Court of the learned Sessions Judge-cum-Special Judge, Koraput for alleged commission of offences under Section 376(2)(n), 417, 313, 294, 506/34 of the Indian Penal Code and under Section 3(2)(v) and 3(2)(va) of Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) act, 1989.

5. The prosecution case in brief is that the informant being a married woman maintaining her livelihood by doing labour work under the Petitioner since her husband was unsound person having three children. The Petitioner after her work told her to remain with him and misbehaved her and when she denied he forcibly raped her. He kept physical relation in very two to three days with her. He also threatened to kill her if she disclosed the matter to anybody. She aborted her pregnancy for five to six times. Since the wife of the Petitioner quarreled with her, her husband and children left her alone. When the informant became physically sick without getting food she came to Mahia P.S. and reported the matter at the P.S. against the Petitioner. The petitioner also gave a sum of Rs.60,000/- to the victim for her treatment and abortion and abused her in obscene languages and giving threatening to kill her.

6. It is submitted by the learned counsel for the Appellant that the appellant is in custody since 10.08.2012 and the investigation has been completed and charge sheet has been submitted. He further contends that the victim is aged about 36 years whereas the appellant is aged about 39 years. The victim was working under the appellant. He further submits that they were in physical relationship for last two years. Referring to the statement recorded under section 164 Cr.P.C. of the victim, learned counsel for the appellant submits that the offence under section 376(2)(n) is not made out. Further it is submitted that the present case has been foisted falsely against the appellant to harass and black mail the appellant. He further submits that the appellant is a local resident having his immovable properties, there is no chance of his absconding or fleeing away from the hands of justice. Further in the event the appellant is released on bail he will appear before the trial court on each date of posting of the case and

he shall abide by any terms and conditions that may be imposed by this Court.

7. Learned Additional Standing Counsel on the other hand opposes the prayer for bail of the appellant on the ground that the allegation made in the F.I.R. is serious in nature. Therefore, the learned counsel for the State urges rejection of his bail application at this juncture.

8. Having heard learned counsel for the parties and keeping in view the surrounding circumstances of the present case and keeping in view the period of custodial detention of the appellant and considering the statement recorded under Section 164 Cr.P.C. and other materials on record, this Court is inclined to release the appellant on bail and the appellant be released on bail in the aforesaid case subject to the appellant furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions:

- i) he shall appear before the concerned Police Station once in a fortnight preferably on Sunday between 10 A.M. to 1 P.M. till conclusion of trial.
- ii) shall cooperate with the trial of the case and shall appear in trial court on each and every date to which the case is posted.
- iii) shall not indulge in any offence of similar nature
- iv) shall not tamper with the prosecution evidence while on bail.
- v) shall not influence or threaten any prosecution evidence while on bail.

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

9. The impugned order dated 02.11.2021 passed by the learned Sessions Judge-cum-Special Judge, Koraput in T.R.Case No.77 of 2020 is hereby set aside.

10. With the aforesaid observation the appeal is allowed without cost.

11. Issue urgent certified copy as per Rules.

RKS

(A.K. Mohapatra)
Judge

