

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.194 of 2022

Bapini Mehena @ Bapuni Mehena ***Appellant***
Mr. P.S. Das, Advocate

-versus-

State of Odisha and another ***Respondents***
Mr.P.C.Das, ASC for State-Resp. No.1
Mr. Mithun Das, Advocate for Resp. No.2

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
05.04.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Appellant, learned counsel for the State-Respondent No.1 and the learned counsel for the Respondent No.2. 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 14.03.2022 passed by the learned Addl. Sessions Judge-cum-Special Judge, Khallikote, Ganjam in Special G.R. Case No.09 of 2021, arising out of Kodala P.S. Case No.79 of 2021, for commission of alleged offences under Sections 143/364/302/149 of I.P.C. r/w. Section 3(2)(v) of S.C. and S.T. (Prevention of Atrocities) Act, 1989, rejecting the bail application filed by the Appellant.

4. The case of the prosecution, in brief, is that one Rajeswari Nayak lodged an FIR before the I.I.C, Kodala P.S. alleging therein that on 15.02.2021 at about 10.00 P.M. one Jitendra Palei along with 9 to 10 other persons arrived at the house of the Informant by 3 to 4 motor cycles recovered one bag of Ganja from the straw heap. Then they told that the Informant's husband had committed theft of Ganja and asked him to return the rest of Ganja, otherwise he would be killed. On the next day morning, the said Jitendra Palei and two others came to the house of the Informant and enquired about her husband. One of them contacted the Informant's husband over phone and ascertained that he was at Kalimeghi. Subsequently, the Informant came to know that her husband was kidnapped by the above persons from Kalimeghi and brutally assaulted him, who subsequently died.

5. It is submitted by learned counsel for the Appellant surrender before the trial court on 14.03.2022, as per the direction of this Court in ABLAPL No.407 of 2022.. It is further submitted that police after completion of investigation submitted charge-sheet against the Appellant. It is further submitted that the present Appellant has not been named in the FIR. As Appellant is a permanent resident of the locality, there is no chance his absconding the trial of the case in the event of release on bail.

6. Learned counsel for the Informant vehemently objects to the prayer of the Appellant on bail on the ground that the accused involved in heinous crime.

7. Learned counsel for the State also opposes the bail of the Appellant on the ground that the allegation is very serious in nature.

Accordingly, he urges for rejection of bail application of the Appellant.

8. Considering the aforesaid facts and circumstances of the case, further considering the period of detention of accused Appellant, this Court sets aside the order dated 14.03.2022 passed by the learned Addl. Sessions Judge-cum-Special Judge, Khallikote, Ganjam in Special G.R. Case No.09 of 2021, arising out of Kodala P.S. Case No.79 of 2021. It is further directed that let the Appellant be released on bail subject to furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with two local sureties for the like amount to the satisfaction of the learned court in seisin over 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 appear before the I.O. on every fortnight preferably on Sunday at 10.00 A.M. to 1.00 P.M.;
- (iii) He shall not leave the jurisdiction of the concerned court without special permission;
- (iv) He shall not tamper with the prosecution evidence;
- (v) He shall not influence or threaten or terrorize any prosecution evidence and the informant or his family members in any manner whatsoever and cooperate in the investigation;
- (vi) He shall provide the present address and mobile number to the local police station, in the event of any change in the address or mobile number, the same shall also be intimated to the local police;
- (vii) Violation of any of the above conditions shall entail cancellation of the bail; and

(viii) The trial court may impose any other condition(s), as deem fit and proper.

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

