

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No. 134 of 2021

Susanta Pradhan @ Dhupadi

Appellant

Mr. Tukuna Mishra, Advocate

-versus-

State of Orissa & Anr.

Respondents

Mr. P.C. Das, ASC

**CORAM:
JUSTICE SAVITRI RATHO**

Order No.

**ORDER
04.02.2022**

06. 1. I have heard Mr. Tukuna Mishra, learned counsel for the appellant and Mr. P.C. Das, learned Additional Standing Counsel through hybrid mode.
2. Pursuant to issuance of notice, the parents of the deceased namely, Shri Samant Hati and Smt. Kuni Hati appeared in person in Court on 13.12.2021 being identified by Mr.P.C. Das, learned Additional Standing Counsel. They have vehemently objected to the prayer for bail of the appellant.
3. This appeal has been preferred by the appellant-Susanta Pradhan @ Dhupadi under Section 14-A (2) of SC & ST (POA) Act, 1989 against the order dated 19.10.2020 passed by the learned Sessions Judge-cum-Special Judge, Boudh in Special Case No. 13 of 2020 (SC/ST) arising out of Boudh P.S. Case No. 181 of 2020 refusing to grant bail to the appellant who is implicated in a case for commission of offences punishable under Sections 302/201/34 of IPC read with Section 3 (2)(v) of S.C. & S.T. (PoA) Act.
4. The prayer for bail of the present appellant was rejected by the learned Sessions Judge-cum-Special Judge, Boudh on 19.10.2020.

5. The prosecution allegation in brief is that the informant's daughter had married about 12 years back and her husband died due to diabetes problem three years back. Thereafter she had developed relations with co-accused, Bhagirathi Luha who stayed near her in-laws house. Due to disturbance in her in-laws family, she came to the informant's house and was staying there and did not break her relations with Bhagirathi inspite of requests of her family members. Bhagirathi Luha suspected that she had developed relationships with other men in her village as she had become friendly with one teacher and was aggrieved. He had earlier taken her jewellery and mortgaged them with one Pramod Amat and when the deceased started asking for them, he developed a plan to do away with her life. On 01.07.2020 while she was in the home of one Satyabrata Hati, he called her over telephone to come with him to fetch her jewellery. Thereafter she was not found. Informant and others searched for the deceased but failed to find her. On 08.07.2020, the villagers found a dead body in the jungle and it was identified to be her. Bhagirathi Luha is alleged to have confessed to have killed the deceased with the help of the appellant and the latter was seen taking co accused Bhagirathi Luha on his motorcycle on the date the deceased was last seen.

6. Mr. Tukuna Mishra, learned counsel for the appellant submits that the appellant was arrested on the basis of the confession of co-accused- Bhagirathi Luha. He has further submitted that the appellant is in custody since 2020. But no other incriminating material has been collected by the prosecution to link him with the crime and chargesheet has been filed.

7. Mr. P.C. Das, learned Additional Standing Counsel objects to the prayer for bail, submitting that apart from confession of the co- accused, witnesses have seen the appellant with the co-accused, Bhagirathi Luha on his motorcycle at 10.00 am on the day the deceased went missing i.e 01.07.2020. His mobile phone records indicate that he was in constant

touch with the co- accused on that day he has given recovery of the motorcycle and mobile phone. As the co accused has confessed to have killed the deceased with his connivance, a prima facie case is made out against him for which he should not be released on bail.

8. After considering the submissions of the counsels, nature of materials collected against the appellant and co-accused, Bhagirathi Luha, I am of the prima facie view that the appellant stands on a better footing than the co accused and as chargesheet has been filed in the meanwhile, no further material is likely to be unearthed against the appellant. Hence I am inclined to allow this appeal and set aside the impugned orders and release the appellant – Susanta Pradhan @ Dhupadi on bail.

9. Let the appellant– Susanta Pradhan @ Dhupadi be released on bail in the above noted case on such terms and conditions as may be fixed by the learned Court below in seisin over the matter, including the following conditions :

- i) He will not indulge in any criminal activity while on bail.
- (ii) He will not threaten or try to influence prosecution witnesses in any manner.
- (iii) He will appear before the trial Court on each date the case is posted for trial.

10. Violation of any condition will entail in cancellation of bail.

11. No observation in this order shall be construed as an expression on the merits of the case.

12. The CRLA is accordingly disposed of.

13. In view of the restrictions due to resurgence of COVID-19 situation, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide

Court's Notice No.4587, dated 25th March, 2020, modified by Notice No.4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(Savitri Ratho)
Judge

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