

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.241 of 2022

Lipu Naik

....

Appellant

Mr. C.R. Pattanaik, Advocate

-versus-

State of Odisha

....

Respondents

Mr. K.K. Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

17.05.2022

Order No.

03.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned counsel for the State.
3. The present appeal has been filed challenging the order dated 05.01.2021 passed by the learned Additional Sessions Judge-cum-Presiding Officer. Children's Court, Dhenkanal in Case No.J.C. CT(SS) 11 of 2020 arising out of Hindol P.S. Case No.64 dated 21.307.2020 thereby while dismissing the application for bail of the appellant/juvenile conflicts with law.
4. It is alleged that the appellant along with his other family members had brutally assaulted the victim by bamboo lathi where the victim succumbed to the injuries.
5. It is submitted by learned counsel for the appellant that the

appellant is languishing in jail custody since July, 2020 and in the meantime, investigation has been concluded and charge-sheet has been submitted. He further submits that the trial has commenced. However, he expresses his apprehension that the trial may not be concluded in near future.

6. Further, learned counsel for the appellant submits that the appellant is a juvenile, who is entitled to get the benefit of Juvenile Justice Act and that the CCL is in custody for a long time, which affects the mental condition of the CCL. He also submits that other co-accused persons have already been released on bail. Further, learned counsel for the CCL submits that there is omnibus allegation against the CCL and he has no specific allegation of overt-act made against the CCL. It is further contended by learned counsel for the CCL that the CCL was carry out the words of hardcore criminal of the locality and as such, he is entangled in this case. It is also submitted that there is no other criminal antecedents and there is no chance of absconding of the appellant and that taking into account his period of detention, he may be released on bail.

7. Learned counsel for the State, on the other hand, submits that nature of allegation against the CCL is very serious in nature and he further submits that in view of Section 12 of the J.J. Act safety of the CCL is first priority. He further submits that the CCL may not be safe if he is in jail and allow him to live in the locality. On such grounds, learned counsel for the State objects the bail of the CCL.

8. It is not disputed that the CCL is not received proper care and from his family particularly his parents. Therefore, he needs counseling or supervision.

9. On query, learned counsel for the State submits that the CCL has no criminal antecedents.

10. Considering the submissions made by learned counsel for the appellant, keeping in views the provision under Section 12 of the 2015 Act, the period of detention of the appellant in the Observation Home and absence of any material that while on bail the appellant is likely to come in association with any known criminal or will be exposed to moral, physical or psychological danger or his release would defeat the ends of justice, I am inclined to release the appellant on bail.

11. Accordingly, the appellant is directed to be released on bail on his father or any family member executing personal bond for a sum of Rs.30,000/-(rupees thirty thousand) with two solvent sureties each of the like amount to the satisfaction of the learned Additional Sessions Judge-cum-Presiding Officer. Children's Court, Dhenkanal and also on filing an affidavit by such family member before the concerned Court to the effect that:-

- I. The petitioner shall be responsible for the well-being of the appellant;
- II. he shall ensure that the appellant does not fall into bad company; and
- III. he shall ensure the presence of the appellant before the learned Additional Sessions Judge-cum-Presiding Officer. Children's Court, Dhenkanal on each date when the case would be posted for inquiry.

12. With the aforesaid observation, the impugned order dated 05.01.2021 passed by the Additional Sessions Judge-cum-Presiding Officer. Children's Court, Dhenkanal in the aforesaid case is set aside.

13. The CRLA is accordingly allowed.

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

(*A.K. Mohapatra*)
Judge

Jagabandhu

