

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.252 of 2022

Kailash Panda @ Kailash Chandra Panda ***Appellant***

Mr. D. Nayak,
Sr. Advocate

-versus-

State of Odisha and another ***Respondents***

Mr.R. Tripathy,
Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER
29.11.2022.

Order No.

- 16.
1. This matter is taken up through hybrid mode.
 2. Heard learned counsel for the Appellant learned Addl. Standing Counsel for the State.
 3. The Appellant is in custody since 25th March, 2022 in connection with Pattamundai P.S. Case No.728/2021 corresponding to T.R. No.159/2021 pending in the court of learned Sessions Judge, Kendrapara for the alleged commission of offence under Section 363/294/323/376(2)(n)(3)/302/201/34 of I.P.C. read with Section 3(1)(r)/3(1)(s)/3(2)(va).
 4. The prosecution case is that the Appellant abducted the victim, who was a minor girl in 2014, and kept her concealed

where they lived as husband and wife. Despite efforts, the victim girl could not be traced out. The informant is the father of the victim. The Petitioner opened a Multi Charger Company in 2019 at Pattamundai, wherein one Sunia Tarai was working as Sales Manager. The Appellant is said to have developed a love relationship with her. This led to dissension between the Appellant and the victim resulting in frequent quarrels between them. On 10th March, 2020, the Appellant informed the informant that the victim was seriously ill. She was taken to the D.H.H., Kendrapara for treatment but was received dead. It is further alleged that one Kamali Panda impersonated as the mother of the victim and managed to convince the Doctor on duty to take back the victim's body without post mortem examination on the ground that they belong to the Brahmin caste. Thereafter, the victim was hurriedly cremated.

5. Mr. D. Nayak, learned Sr. Counsel appearing for the Appellant, has forcefully argued that there is absolutely no material against the Appellant to show his complicity in the alleged occurrence and that he has been entangled only on suspicion. Mr. Nayak further submits that had the accused been guilty of committing murder, he would not have taken the victim to the hospital for treatment in the first place.

6. Mr. R.Tripathy, learned Addl. Standing Counsel for the State, opposing the prayer for bail submits that the case has to be considered as a whole. The conduct of the Appellant

strongly suggests that he had a role to play in the death of the deceased. Elaborating his argument, Mr. Tripathy submits that the very fact that the Appellant allowed one Kamali Panda to impersonate as the mother of the victim, took back the dead body without a post mortem examination and in hurriedly cremating her, strongly suggests his complicity. Additionally, there is evidence that the Appellant was not pulling on well with the victim because of his extra marital relationship.

7. I have considered the rival submissions and perused the case record including the case diary in detail. While there does not appear to be any direct evidence showing the complicity of the Appellant in the alleged occurrence yet, as submitted by learned State counsel, the conduct of the Appellant noted above and evidence in support thereof being available, it cannot be said that he had no role to play in the occurrence. On the contrary, the same prima facie suggests that he had a definite role to play in the death of the deceased.

8. Considering all the above facts, I am not inclined to allow the prayer for bail, which is, accordingly, rejected.

9. The CRLA is disposed of.

AKB

(Sashikanta Mishra)
Judge

