

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.265 of 2022

Sk.Ramjan

....

Appellant

*Mr.Chandan Samantaray,
Advocate*

-versus-

State of Odisha

....

Respondent

*Mrs.Susamarani Sahoo,
Addl. Standing Counsel
Mr. D.J. Sahoo, Advocate (for
the informant)*

CRLA No.315 of 2022

Mazeda Bibi

....

Appellant

*Mr.Chandan Samantaray,
Advocate*

-versus-

State of Odisha

....

Respondent

*Mrs.Susamarani Sahoo,
Addl. Standing Counsel
Mr. D.J. Sahoo, Advocate (for
the informant)*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
01.08.2022**

Order No.

07. These matters are taken up through Hybrid arrangement
(video conferencing/physical mode).

Since both the appeals arise out of one case, the same are taken up and are disposed of by this common order.

Heard learned counsel for the appellants, learned counsel for the State as well as learned counsel for the informant in both the cases.

Both the appeals are under section 14-A(2) of S.C. & S.T. (PoA) Act, 1989 in connection with C.T. Case No.1059 of 2021 arising out of Sahadevkhunta P.S. Case No.364 of 2021 pending in the S.D.J.M., Balasore for offences punishable under sections 302, 120-B/34 of the Indian Penal Code, read with sections 3(1)(r)(s) and 3(2)(va) of the S.C. & S.T. (PoA) Act.

The appellants moved applications for bail before the Court of learned Sessions Judge, Balasore, which were rejected on 19.01.2022 and 04.01.2022.

Learned counsel for the appellants submits that the appellants are in judicial custody since 20.12.2021 and charge sheet has been submitted under sections 302, 120-B/34 of the Indian Penal Code, read with sections 3(1)(r)(s) and 3(2)(va) of the S.C. & S.T. (PoA) Act and the deceased Rabi Singh was also assaulted to death on that date. It is further submitted that the informant Madha Singh is an eye witness to the occurrence and he has specifically stated that one Sk. Yusuf assaulted on the chest of the deceased by means of a knife, which is the cause of death as per the post mortem report and therefore, the bail applications may be favourably considered.

Learned counsel for the State, on the other hand, submitted that each of the appellants is having one criminal antecedent and as per the post mortem report, the cause of death was on account of injury to heart and lungs. She further submitted that the informant has stated that while the appellant Sk.Ramjan

along with some of the co-accused persons were holding hands of the deceased Rabi Singh, Sk. Yusuf assaulted the deceased on his chest by means of a 'knife'. She further stated that there are allegations against the appellant Mazeda Bibi that prior to the occurrence, she along with other co-accused persons had given threat to kill the deceased and there was a meeting between the accused persons to commit the murder of the deceased.

It is contended by the learned counsel for the informant that apart from the informant, there are two other eye witnesses to the occurrence, namely, Sachin @ Suraj Biswal and Sebati Biswal, who have stated similarly like that of the informant, but further stated that the appellant Mazeda Bibi was present at the time of occurrence and she was instigating the co-accused persons to kill the deceased.

Considering the submissions made by the learned counsel for the respective parties, the nature and gravity of accusation against the appellant Sk.Ramjan and since he was holding the hands of the deceased along with the co-accused persons and restraining his movement, which facilitated the accused Sk.Yusuf to stab the deceased with a knife on his chest, I am not inclined to release him on bail. The prayer for bail of appellant stands rejected. However, he is at liberty to renew his prayer for bail after examination of the informant so also the eye witnesses, namely, Sachin @ Suraj Biswal and Sebati Biswal. The learned S.D.J.M. Balasore shall do well to expedite the commitment of the case and the learned trial Court after framing of charge shall take expedite steps for examination of the eye witnesses at the first instance.

So far as the appellant Mazeda Bibi is concerned, since in the F.I.R., her name is not there regarding her presence at the

place of assault and there is nothing in the F.I.R. that she instigated the co-accused persons at the time of commission of crime, considering the period of her detention in judicial custody and keeping in view the proviso to section 437(1) of Cr.P.C., I am inclined to release her on bail.

Let the appellant Mazeda Bibi be released on bail in the aforesaid case on 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 with further conditions as the learned Court may deem just and proper with further conditions that she shall appear before the learned trial Court on each date to which the case would be posted for trial and shall not try to tamper with the prosecution evidence.

Violation of any of the conditions shall entail cancellation of bail.

Both the CRLAs are accordingly disposed of.

Issue urgent certified copy of this order on proper application.

(S.K. Sahoo)
Judge

PKSahoo