

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.200 of 2021

Debashis Sahoo @ Bitna

....

Appellant

Mr. Debi Prasad Dhal, Sr. Advocate

-versus-

State of Orissa and another

....

Respondents

Mr. P.C. Das, ASC for State-Resp. No.1

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

19.04.2022

Order No.

11. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Appellant and learned counsel for the State-Respondent No.1. 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 12.04.2021, passed by the learned 1st Additional Sessions Judge-Special Judge, Rourkela, in Special G.R. No.4 of 2021, arising out of Bondamunda P.S. Case No.177 of 2020, for commission of alleged offences under Sections 341/325/302/34 of IPC r/w. Sections 3(2)(v)/3(2)(va) of SC and ST (POA) Act, rejecting the bail application filed by the Appellant.
4. The case of the prosecution, in brief, is that the Informant, namely, Kamal Purty lodged a written report before the I.I.C., Bondamunda alleging therein that on 4.12.2020 at about 9 a.m. to 10 a.m., the Appellant dragged his elder brother Padmalochan Purty from his house and tied him in a electric pole brutally assaulted by means of lathi, seeking this incident some persons asked him the

reason of assault and thereafter, the Appellant threatened every one that he had link with police and no one can do anything of him. The Informant came to know about the incident on 5.12.2020. On 6.12.2020 at about 7.a.m., they called the doctor for his treatment, who declared him dead.

5. It is submitted by learned counsel for the Appellant that he is in jail custody since the date of his arrest, i.e. 09.12.2020. It is further submitted that police after investigation has filed charge-sheet against the Appellant. It is submitted that the deceased had taken mutton worth Rs.2,850/- and had not paid the amount. When the Appellant wanted his money back, deceased abused him in obscene language. The Appellant got angry and gave him fist blow. Thereafter, he tied the deceased in a pole, after the deceased returned the amount, he released him.

6. Relying upon the post-mortem report, learned counsel for the Appellant submits that there are only two injuries as reported in the post-mortem report. Both the injuries as indicated hereinabove are on the lower part of the body and abrasion. Further, it is submitted that no weapon whatsoever has been used by the Appellant and only gave fist blows when the deceased abused in filthy language. Learned counsel for the Appellant submits that he had no intention to murder or take away the life of the deceased.

7. Learned counsel for the State on the other hand submits that the allegation made in the FIR is that the Appellant had purchased mutton, but he did not pay the amount. When Appellant asked for return of the money, deceased used filthy language, as a result, the Appellant gave fist blows. Further he submits that the post-mortem report also corroborates the allegation made in the FIR.

8. On a perusal of the FIR statement as well as the documents on record, this Court finds that the injuries are not very serious in nature. Moreover, the deceased was assaulted by means of fist blow and Appellant has no intention to commit murder. Further the deceased died after two days of the occurrence. The same is a matter of trial and this Court does not get into the details of the same at this stage.

9. Considering the rival contentions of the parties and the surrounding facts and circumstances of the case as well as the period of detention of the Appellant and keeping in view the allegation made, this Court sets aside the order dated 12.04.2021, passed by the learned 1st Additional Sessions Judge-Special Judge, Rourkela, in Special G.R. No.04 of 2021, arising out of Bondamunda P.S. Case No.177 of 2020. 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 solvent sureties for the like amount to the satisfaction of the learned court in seisin over the matter. It is open for the court below to fix the terms and conditions as deem fit and proper in the facts and circumstances of the case.

10. With the above direction, the CRLA is accordingly allowed.

11. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge