

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.358 of 2022

Chhoti @ Gelhi @ Indubala Sethi ***Appellant***
Mr. Pradeep Kumar Panda, Advocate

-versus-

State of Odisha and another ***Respondents***
Mr.M.K. Mohanty, ASC for State-Res.1
Mr.Maitrijit Mohanty, Advocate for Informant-Res.2

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
05.07.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Appellant, learned counsel for the State as well as learned counsel for the Informant. Perused the materials available on record.
3. This appeal has been filed by the Appellant challenging the order dated 25.02.2022, passed by the learned Special Court, (S.C. & S.T.), Balasore in Special Case No.16 of 2022, arising out of Balasore Sadar P.S. Case No.354 of 2021, for commission of alleged offences under Sections 302/34 of I.P.C. r/w. Sections 25/27 of Arms Act, rejecting the bail application filed by the Appellant.
4. The brief facts of the case, as per the F.I.R., is that due to previous enmity, one Anibesh Ghosh, Kuan @ Kailash Das, Sana Kalia @ Dibjajyoti Patra, Rohit @, S. Rohit Rao, Kanduru @ Sanjay Sethi, Papu Lenka, Murali Das, Sekhar, Bottle @ G. Venkata Rao

and Ram Babu all are of Bhaskarganj and Telenga Sahi used to come to informant's house and search for the son of the informant, namely, Binod Bihari Das @ Binu (deceased) when the informant discloses that Binu is not therein the house, all of them threatens the informant to kill him and his family. Thereafter it has been alleged that today, i.e. on 31.10.2021 at about 8.00 A.M., one Kanduru @ Sanjay Sethi called Binu (deceased) over phone. Then the deceased told his wife that he is going to Rupsa, the in-law house of his younger brother. Then the deceased called one Hapi of his village and proceeded to Rupsa by driving the "Apachee" motor cycle of said Hapi wherein Hapi was a pillion rider. At Kuruda Chhak in front of Laxmi Jewellery and near the in-law house of Kanduru about 10 to 11 persons in a pre-planned manner fired the deceased and assaulted the deceased by means of deadly weapons and the deceased succumbed to the injuries on the spot.

5. Learned counsel for the Appellant submits that Appellant is in jail custody since 31.10.2021. It is further submitted that police after completion of investigation submitted charge-sheet in the matter on 28.02.2022. Learned counsel for the Appellant submits that Petitioner has not been named in the FIR nor has she participated in the crime. Since investigation has already been completed, there is no chance of absconding the trial of the case in the event of release on bail.

6. Learned counsel for the State on the other hand opposes the bail application of the Appellant on the ground that serious allegation has been made against the Appellant, therefore, no leniency should be shown to the Appellant. Further he urges for rejection of his bail application.

7. Considering the aforesaid facts and circumstances of the case, considering the period of detention of the Appellant and also the specific role played by the Appellant in the alleged crime, this Court sets aside the order dated 25.02.2022, passed by the learned Special Court, (S.C. & S.T.), Balasore in Special Case No.16 of 2022, arising out of Balasore Sadar P.S. Case No.354 of 2021. 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 one solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following conditions:

- i) She shall appear before the trial court on each and every date as fixed by the court;
- (ii) She shall not tamper with the prosecution evidence;
- (iii) She shall not influence or threaten or terrorize any prosecution evidence and cooperate in the investigation;
- (iv) She shall not threaten the Informant or try to reach out the Informant in any manner whatsoever;
- (vi) Violation of any of the above conditions, shall entail cancellation of the bail of the Appellant and the NBW (A) shall be issued against the Appellant;
- (vii) The court in seisin of the matter may impose any additional condition(s), if situation so warrants.

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

9. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge