

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLA No.254 of 2021

Tanmaya Behera @ Suraj Behera ***Appellant***

Mr. Amulya Ratna Panda, Adv.

-versus-

State of Odisha.

.... ***Respondents***

Mr. K. Gaya, ASC

CORAM:
MR. JUSTICE S.K. PANIGRAHI

ORDER
10.01.2022

Order No.

- 04.
1. This matter is taken up through Video Conferencing mode.
 2. This is an application under Section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015.
 3. Heard learned counsel for the Appellant and learned Additional Standing Counsel for the State/ Respondent.
 4. The Appellant assails the order dated 30.03.2021 passed by the learned Additional District and Sessions Judge-cum-Special Judge, Phulbani in C.T. Case No.6 of 2020 arising out of Phiringia P.S. Case No.68 of 2019 registered for the alleged commission of offences under Sections 20(b)(2)(C)/25/29 of the N.D.P.S. Act, whereby his application for bail under Section 439 of the Cr.P.C. has been rejected and further prays to enlarge him on bail.
 5. The case of the prosecution is that on 13.08.2019 the Juvenile in conflict with law, along with others, found to be in possession of two plastic bags containing contraband articles weighing 25 kgs. and 300 gms. each. They were transporting the same in an Xcent Honda Car bearing Registration No.OD-

02-AX-7367. The Investigating Officer on finding *prima facie* evidence, submitted the charge-sheet for the aforesaid offences.

6. Learned counsel for the Appellant submits that the Appellant is a juvenile in conflict with law. He is in custody since 13.08.2019. Moreover, a co-accused has already been released on bail. Furthermore, learned counsel for the Appellant places reliance on the case of **Ranjit Paika & Ors. Vrs. State of Orissa**¹ wherein this Court held that:

“The rights of the juvenile has been placed on a high pedestal by the legislature and the procedure prescribed under the 2000 Act governs all cases concerning juveniles in conflict with law irrespective of the offence they are alleged to have committed as well as all children covered under the definition of 'children in need of care and protection'. Every aspect of the matter including detention, prosecution, sentencing, rehabilitation, restoration of a person who has not completed eighteen years of age has to be dealt with in accordance with provisions of the 2000 Act. The Parliament was very much aware of the existence of the provision under Section 37 of the N.D.P.S. Act, 1985 when they introduced 2000 Act which came into force w.e.f. 22.08.2006 and particularly the provision under Section 12 of the said Act. Section of the 2000 Act makes it clear that bail could only be refused when the Court comes to the conclusion that there are reasonable grounds for believing that the release of juvenile is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.”

7. In view of the period of detention and juvenility of the Appellant, the CRLA is allowed.

¹ 2018 (71) OCR 454

8. Let the Appellant- juvenile in conflict with law be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin over the matter with further conditions that: -

(i). he shall behave properly without showing any aggressiveness or any kind of delinquent behavior;

(ii) he shall not indulge in any kind of criminal activity during bail period and shall not tamper with the prosecution evidence of prosecution witnesses in any manner;

(iii) his family shall guide him in protecting the interest.

9. Accordingly, the CRLA is disposed of.

10. As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide Court's Notice No.4587 dated 25th March, 2020 and Court's Office Order dated 7th January, 2022.

(S.K. Panigrahi)
Judge

BJ