

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.268 of 2021

Md. Nuasad @ Imran Khan

....

Appellants

Mr. Abhishek Mohanty, Advocate
-versus-

State of Odisha and another

....

Respondents

Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
15.03.2022

Order No.

10.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an appeal under Section 14(A)(2) of Schedule Caste and Scheduled Tribe Act.
3. Heard learned counsel for the Appellants and learned Additional Standing for the State. Perused the case record, statement of the victim recorded under Section 164 of the Cr.P.C., F.I.R. as well as statement of the witnesses.
5. The present appeal is directed against the order dated 01.06.2021 passed by the learned 2nd Additional Sessions Judge, Rourkela in Special G.R. Case No.03 of 2021 arising out of Biramitrapur P.S. Case No.26 of 2021 for alleged commission of offence under Sections 376(2)(n)/506, I.P.C. read with Sections 3(1)(r)(s)/3(2)(va) of the S.C. and S.T. (PoA) Act.
6. The case of the prosecution, in brief, is that the informant/victim,

namely, Sunita Nag lodged a written report before the I.I.C. Biramitrapur Police Station stating and alleging therein that for last two months she has been staying near Gobiradhaba in a rented house, the petitioner was Muslim boy is staying near to her house and working in a tyre shop near Gobira Chow. His elder brother, namely, Salman Khan most of the time Imran Khan came near her house for collection of water from the tube well and asked her mobile number. On 31.01.2021 said Imran Khan gave his mobile number to the victim but denied to receive the same. Prior to that he took the mobile number of the complainant and approached her to marry her daughter. He creates a reasonable believe in her mind and asking her to produced to Rourkela as per his request the complainant came to near Kuarmunda weekly after getting the mobile phone of the appellant on 9.46 A.M. then at 10.00 A.M. they went to Rourkela and on 11.30 A.M. they reached at the hotel and the appellant committed sexual intercourse repeatedly with her with a false impression to purchase the mobile phone. Despite of several requests the appellant take snap of naked body of the victim and threatened to expose the same in public as well as threatened for dire consequences, if she will disclose before the Police Station.

7. It is submitted by learned counsel for the appellants that the appellants are in custody since 09.04.2021 and in the meantime, investigation has been concluded and charge-sheet has been submitted. Further it is submitted by leaned counsel for the appellant that the victim is a major aged about 31 years and the accused-appellant is aged about 24 years. He also submits that they had consensual and when the incident came to know by the husband of the victim the present F.I.R. has been lodged. He also submits that the appellant is a resident of the locality and as such, there is no chance of absconding from the hands of justice and further in the event the appellant released on bail, he shall cooperate with the trial and appear before the trial court on each and

every date in the trial.

8. Learned counsel for the State-Respondent, on the other hand, submits that the allegations made against the appellant are serious in nature. He further submits that considering the gravity and seriousness of the allegation, the prayer for bail at the behest of the appellant may be rejected.

9. Having heard learned counsel for the Appellant as well as learned Additional Standing Counsel for the State-Respondent, statement of the victim recorded under Section 164, Cr.P.C. and considering the nature of accusation, seriousness and the gravity of offence as well as custodial detention of the Appellant, I am inclined to release the Appellant on bail. Accordingly, the impugned order dated 01.06.2021 passed by the learned 2nd Additional Sessions Judge, Rourkela is hereby set aside.

10. Let the Appellant be released on bail in the aforesaid case subject to furnishing a bail bond of Rs.50,000/-(rupees fifty thousand) each with two local sureties each for the like amount to the satisfaction of the learned court in seisin over the matter subject to conditions that :-

- I. The appellant shall not be involved in any offence of similar nature;
- II. He shall not tamper with the prosecution evidence or make any attempt to threaten or influence the witnesses especially the victim or her family members in any manner whatsoever;
- III. He shall not make any default in attending the court during trial on each date; and
- IV. He shall not make any attempt to contact the victim and shall stay away from the victim and her family members.

Violation of any of the terms and conditions shall entail

cancellation of bail.

11. It is open for the court in seisin over the matter to impose other conditions may deem just and proper.

12. With the aforesaid observation, the Appeal is allowed without any cost.

13. Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge

Jagabandhu

