

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.486 of 2022

Bhikari Das @ Champi* *Appellant

Mr. J. Sahoo, Advocate

-versus-

State of Odisha* *Respondent

*Mr. Arupananda Das,
Addl. Government Advocate*

CORAM:

JUSTICE S.K. SAHOO

ORDER

05.09.2022

Order No.

11. This matter is taken up through Hybrid Arrangement (Video Conferencing/Physical Mode).

This is an appeal under section 101(5) of Juvenile Justice (Care and Protection of Children) Act, 2015 read with section 374 of Cr.P.C. in connection with J.R. No. 44 of 2021 arising out of Bada Bazar P.S. Case No.227 of 2021 pending in the Court of learned 2nd Addl. Sessions Judge –cum- Presiding Officer, Children's Court, Berhampur for alleged commission of offences punishable under sections 302, 201, 120-B/34 of the Indian Penal Code and section 25(1-B)(b)/27 of the Arms Act.

Learned counsel for the appellant submitted

that the appellant is detained in observation home since 17.11.2021 and he is aged about seventeen years and he has been charge sheeted under sections 302, 201, 120-B/34 of the Indian Penal Code and section 25(1-B)(b)/27 of the Arms Act. It is further submitted that the occurrence in question took place on 05.11.2021 and on the very day, the first information report was lodged and there are no eye witnesses to the occurrence and the case is based on the confessional statement of the co-accused before police and there is no criminal antecedent against the appellant and keeping in view the proviso to section 12 of the Juvenile Justice (Care and Protection of Children) Act, the bail application of the appellant may be favourably considered.

Learned counsel for the State has produced the social investigation report from which it appears that the appellant has passed HSC examination and there is no criminal antecedent against him. Learned counsel for the State however submitted that there are two statements of witnesses, namely Mithu @ Tejeswar Das and Cheru Gouda who stated about the conspiracy between the appellant and the co-accused persons few days prior to the occurrence relating to the commission of murder of the deceased Pradeep Kumar Bisoi and he also placed the statement of one Pintu Nayak who stated about the accused persons

including the petitioner following the deceased on the date of occurrence in vehicles.

Considering the submissions made by the learned counsel for the respective parties, the nature of accusation against the appellant, absence of any direct evidence, the nature of circumstantial evidence on record, young age of the appellant, his period of detention, I am inclined to release of the petitioner on bail.

Let the appellant be released on bail in the aforesaid case on such terms and conditions as the learned Court in seisin over the matter may deem just and proper with further conditions that:-

(i) one surety should be the family member of the appellant,

(ii) his parent/guardian/close family members shall furnish an undertaking that the appellant shall not be allowed to come in contact with any unsocial and criminal association and shall not be exposed to any moral, physical or psychological danger and further he shall ensure that the appellant is not indulged in any criminal activities and he shall further ensure the presence of the appellant during inquiry before the Board as and when required;

(iii) the District Probation Officer shall keep a close vigilance on the activities of the appellant while on bail and regularly draw his social investigation

report which shall be submitted to the concerned Court on periodical basis as the Board chooses.

Accordingly, the CRLA is allowed and the impugned order dated 04.05.2022 passed by the learned 2nd Additional Sessions Judge -cum- Presiding Officer (Children's Court), Berhampur is hereby set aside.

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

A free copy of the order be handed over to the learned counsel for the State which is to be forwarded to the District Probation Officer, Berhampur for compliance.

(S.K. Sahoo)
Judge

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