

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.296 of 2021

Md. Afroz @ Afroz Sekh

.... Appellant

Mr. A.K. Rout, Advocate

-versus-

State of Odisha and another

.... Respondents

Mr. K.K. Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

11.03.2022

Order No.

07.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an appeal under Section 14(A) of Schedule Caste and Scheduled Tribe Act.
3. Heard learned counsel for the Petitioner and learned Additional Standing for the State. Perused the case record, F.I.R. as well as statement of the witnesses.
4. The present appeal is directed against the order dated 02.06.2021 passed by the learned Additional District Judge-cum-P.O., special Court (POCSO), Sundargarh, I/C, in Special G.R. Case No.28 of 2021 arising out of Biramitrapur P.S. Case No.44 of 2021 for alleged commission of offence under Sections 354/354-D/363/354-A, I.P.C. read with Section 12 of the POCSO Act read with Section 3(1)(r)/3(2)(va) of the S.C. and S.T. (PA) Act.
5. Further despite notice having been served on Respondent No.2, which fact has been confirmed by the I.I.C. of the concerned Police

Station, none appears on behalf of the Respondent No.2.

6. The facts of the case as alleged in the F.I.R. lodged by the informant, namely Riya Gochhayat, in a nutshell, is that she belongs to a Harijan by caste. The alleged date on 04.03.2021 at about 9.00 A.M., the victim had been to her college and she was talking with her friend, namely, Paban. It is stated that at that time the petitioner came near to her and asked her whether he is her boy friend. The informant replied that he is supposed to be her brother in relation. Then the said Paban left the spot. Thereafter the petitioner approached her to go outside but the informant denied. On this, the petitioner frightened her to appraise the matter to her father. Thereafter, the informant went with the petitioner towards Andhari in his bike. It is also alleged that the petitioner touched her whole body and when she was trying to escape, the petitioner did not allow her to go. It is also stated that on the way, the petitioner took her to a shop and provide her chocolates and told her not to disclose the fact before anybody and left her near college gate. On the basis of the aforesaid allegation, the F.I.R. was lodged.

7. It is submitted by learned counsel for the appellant that the appellant is in custody since 04.03.2021 and in the meantime, investigation has been concluded and charge-sheet has been submitted. He further submits that the appellant has been falsely implicated in this case. 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 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 02.06.2021 passed in CRLA 296 of 2021 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) with two local sureties each for the like amount to the satisfaction of the learned court in seisin over the matter with further conditions as may deem just and proper by the learned court in seisin over the matter in the facts and circumstances of the present case.

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

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

(*A.K. Mohapatra*)
Judge