

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.498 of 2022

Sritam Sahu

....

Appellant

Mr. J.K. Panda, Advocate

-versus-

State of Odisha

....

Respondent

*Mrs. Susamarani Sahoo,
Addl. Standing Counsel*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
29.08.2022**

Order No.

05. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the appellant and learned counsel for the State.

This appeal has been filed by the appellant under section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereafter 'J.J. Act') challenging the order dated 25.06.2022 passed by the learned Additional Sessions Judge -cum- Presiding Officer, Children's Court, Boudh, in connection with Boudh P.S. Case No.143 of 2022 corresponding to Special Case (PCR) No.02 of 2022 pending in the said Court in rejecting his bail application.

Learned counsel for the appellant submitted

that the appellant is the child in conflict with law (hereafter 'CICL') and he is detained in observation home since 21.05.2022 and charge sheet has been submitted for commission of offences under sections 20(b)(ii)(c)/29 of the N.D.P.S. Act read with section 25(1-A) of the Arms Act.

Learned counsel for the appellant placed reliance four decisions of this Court i.e., in the cases **of Suku @ Sukadev Soren -Vrs.- State of Odisha reported in 2019(II) OLR 618, Ranjit Paika and another -Vrs-. State of Orissa reported in 2018 (II) OLR-13, Sumanta Bindhani -Vrs-. State of Orissa reported in (2017) 66 OCR-1059 and Gangadhar Karjee -Vrs.- State of Orissa reported in (2017) 66 OCR-1061.**

Learned counsel for the appellant further submitted that in view of section 12 of the J.J. Act, the trial Court should not have rejected the application for bail. Learned counsel further submitted that there is no material on record that the release of the appellant is likely to bring him in association with any known criminal or that he would be exposed to moral, physical or psychological danger or that his release would defeat the ends of justice and therefore, the appellant may be enlarged on bail in the ends of justice.

Learned counsel for the State has produced the

case diary also the social investigation report in which it is mentioned that there is no criminal antecedent against the appellant and it has been mentioned that lack of proper guidance and supervision, influence of bad association and intoxication are the main causes of the problem for the CICL and nothing adverse is reported against the CICL in the locality. He submits that since it is a case of seizure of commercial quantity of ganja from the possession of the appellant, in view of section 37 of the N.D.P.S. Act, the appellant is not entitled to be released on bail.

Learned counsel for the appellant placing reliance in the case of **Sumanta Bindhani** (supra) submitted that section 12 of the J.J. Act overrides the provisions under section 37 of the N.D.P.S. Act in case of the accused who is a juvenile.

Considering the submissions made by the learned counsel for the respective parties, the age of the appellant, the nature of accusation against the appellant, his period of detention and keeping in view the object of section 12 of the J.J. Act, absence of any clinching material on record to show that the release of the appellant is likely to bring him in association with any known criminal or that he would be exposed to moral, physical or psychological danger or that his release would defeat the ends of justice and the ratio laid down in the cases cited, I am inclined to release

of the appellant 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 member 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 trial of the case 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 the social investigation report which shall be submitted to the learned trial Court on periodical basis as the Court chooses.

Accordingly, the CRLA is allowed.

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

(S.K. Sahoo)
Judge