

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.506 of 2022

Bhagirathi Luha

....

Appellant

Mr. Niranjana Panda, Advocate

-versus-

State of Odisha and another

....

Respondents

Mr. P.C. Das, ASC

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

20.12.2022

Order No.

10.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. The present Criminal Appeal under Section 14-A(2) of the S.C. & S.T. (PoA) Act, 1989 has been filed by the Appellant challenging the order dated 13.06.2022 passed by the learned Sessions Judge-cum-Special Judge, Boudh in Special Case (SC & ST)-13/2020 thereby rejecting his application for bail.

3. The present Criminal Appeal arises out of Boudh P.S. Case No.181 of 2020, corresponding to C.T. Case No.473 of 2020 in Special Case (SC & ST)-13/2020, pending in the Court of learned Sessions Judge-cum-Special Judge, Boudh, registered against the Appellant and other accused persons for commission of offence punishable under Sections 302/201 of the I.P.C.

4. Heard Mr. Niranjana Panda, learned counsel appearing for the Appellant and Mr. P.C. Das, learned Additional Standing Counsel appearing for the State-Opposite Party No.1. Informant

also appeared through virtual mode pursuant to the direction of this Court and he was heard in detail by this Court. Perused the Case Diary as well as materials placed before the Court for consideration.

5. The facts of the present case, in brief, is that on 08.07.2020 a dead body of a woman was located in Dalan Pabuli jungle near Village-Gandisara and the body of the deceased was found hanging in a tree. The local villagers informed the matter to the police. Accordingly, a U.D. Case bearing No.13 of 2020 was registered by the Boudh Police Station. The Informant, namely, Samanta Hati, S/o. Raghu Hati identified the dead body as his daughter, namely, Rena. The informant narrated before the police that his deceased daughter, namely, Rena married to one Indra Kanhar of Village-Maneswar in the year 2008. After some year, the husband of the deceased died. After the death of her husband, the deceased had developed relationship with Bhagirathi Luha (the present Petitioner), who used to stay in her in-laws house. Due to disturbance in her in-laws family, she came back to the informant's house and was staying there. However, her relationship with the present Appellant continued despite request by her family members. The present Appellant suspected that the deceased had also developed illicit relationship with another man in her village, who is a teacher by profession. The Appellant had earlier taken the jewellery of the deceased and mortgaged the same with one Pramod Amat and when the deceased asked to return the ornaments, the Appellant

developed a plan to do away with the life of the deceased. Accordingly, on 1.7.2020 while she was in the home of one Satyabati Hati, the Appellant called her over telephone to come to him to fetch her jewellery. The deceased went to the Appellant and since then the deceased is missing. Although the informant and others search for the deceased, but failed to find her. On 08.07.2020, the villagers found a dead body in the jungle and it was identified to be the body of the deceased. Accordingly, a police case was registered and the investigation was started.

6. It is submitted by Mr. Panda, learned counsel for the Appellant that the Appellant is in custody since 20.7.2020. The investigation of the case has concluded in the meantime and charge sheet has been filed. It is further submitted by Mr. Panda that earlier the Appellant approached this Court by filing CRLA No.775 of 2021, however, the same was withdrawn by the learned counsel appearing for the Appellant with liberty to file a fresh bail application, if the trial is not concluded within a period of four months. Accordingly, the aforesaid Criminal Appeal was disposed of vide order dated 15.03.2022 with the liberty as prayed for by the learned counsel for the Appellant.

7. Since the trial was not concluded within the aforesaid stipulated period of time, the Appellant again moved a bail application before the learned Court in seisin over the matter. However, the said bail application has been rejected vide order dated 13.06.2022. Accordingly, the present Criminal Appeal has been filed assailing the rejection order dated 13.06.2022 passed

by the learned Sessions Judge-cum-Special Judge, Boudh.

8. Mr. Panda, learned counsel appearing for the Appellant contended that the entire case of the prosecution is based on confessional statement of the present Appellant before the police and on circumstantial evidence. He further contended that there are no eye witnesses to the occurrence and that the Appellant has been implicated in the present case by applying the doctrine of last seen together.

9. It is further contended by Mr. Panda that some of the co-accused persons, who were arrested along with the Appellant in connection with the present case, have already been released on bail in the meantime. In such view of the matter, Mr. Panda, learned counsel for the Appellant submits that the Appellant be released on bail on any terms and conditions that would be deemed fit and proper by this Court.

10. Mr. Das, learned Additional Standing Counsel appearing for the State-Respondent No.1, on the other hand, submits that the present Appellant is the prime accused in the present crime. He further submits that there is ample evidence on record which creates a strong suspicion. He further contended that the statement of the witnesses recorded by the police reveals that the Appellant and the accused were last seen together. Mr. Das also contended that on post mortem examination it was finally opined by the doctor that the death of the deceased is homicidal. It is further contended by Mr. Das that four witnesses have been examined so far and many of the material witnesses are yet to be

examined. In a case of this nature, the statements of independent witnesses are very material. Thus, if the Appellant is released at this juncture, then there is possibility he might influence, threaten and induce the witnesses and the same would affect the result of the trial. Therefore, the learned counsel for the State submitted that it would be in the interest of justice the Appellant be kept in custody and not released on bail.

11. The informant appeared through virtual mode from the local police station. He also opposed the release of the Appellant on bail. In course of his submission, the informant submitted that the Appellant was in a relationship with his daughter and had taken money and ornaments from his daughter with a promise to marry her. However, subsequently she was cheated and killed by the present Appellant. Accordingly, the informant prayed before this Court that the Appellant's bail application be rejected.

12. Having heard the learned counsel for the respective parties and upon a careful conspectus of the factual background of the present case and upon a close scrutiny of the case diary, the statement of witnesses and other relevant materials, this Court is of the considered view that no doubt the case is based on circumstantial evidence, however, prima facie such circumstances indicate the involvement of the Appellant in the alleged heinous crime.

13. In such view of the matter, this Court is not inclined to release the Appellant on bail.

14. Accordingly, the bail application stands rejected.

15. However, considering the fact that the case arises out of an U.D. Case and based on circumstantial evidence, the learned trial court is directed to expedite the trial in the aforesaid case and make every endeavour to conclude the same within a period of six months from today.

16. With the aforesaid observation, the Criminal Appeal is dismissed.

(A.K. Mohapatra)
Judge

Debasis

