

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No. 522 of 2022

Kanha @ Uttam Naik* *Appellant

Mr.Asutosh Tripathy, Advocate

-versus-

1. State of Odisha

2. Jagabandhu Mahakud* *Respondents

*Mr.Manoranjan Mishra,
Add. Standing Counsel*

CORAM:

JUSTICE S.K. SAHOO

ORDER

19.09.2022

Order No.

03.

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

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

This is an appeal under section 101(5) of Juvenile Justice (Care and Protection of Children) Act, 2015 in connection with Special (POCSO) Case No.06 of 2021 arising out of Pallahara P.S. Case No.119 of 2020 pending in the Court of learned Addl. Sessions Judge -cum- Special Court (POCSO), Angul for alleged commission of offences punishable under sections 363/366/376(3) of the Indian Penal Code

read with section 4(2) of POCSO Act.

Perused the status report submitted by the learned trial Court dated 05.09.2022 from which it appears that the appellant is detained in observation home since 22.06.2022 and he has been charge sheeted under sections 363/366/376(3) of the Indian Penal Code read with section 4(2) of POCSO Act. It is further submitted that out of twenty six charge sheet witnesses, seven witnesses have already been examined including victim and her parents. Learned counsel for the appellant submitted that the appellant is aged about sixteen years and he has got no criminal antecedent 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 is having no criminal antecedent and moreover, mental status examination reveals that the appellant does not have mental capacity to commit such offence and he does not have the ability to understand the consequence of said offence and under the environmental influence i.e., teenage influence, he committed the said offence. The social investigation report is taken on record.

Considering the submissions made by the

learned counsel for the respective parties, the period of detention of the petitioner in observation home, the age of the appellant, the findings in the social investigation report, the progress of the trial and 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, 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 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 trial 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 Court directs.

Accordingly, the CRLA is allowed.

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

(S.K. Sahoo)
Judge

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