

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.349 of 2021

Biswa @ Biswanath Thela ***Appellant***
Mr. Sachidananda Padhee, *Advocate*

-versus-

State of Odisha & another ***Respondents***
Mr.P.C.Das, ,A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
17.03.2022

- 03.
1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
 2. Heard learned counsel for the appellant and the learned counsel appearing for the State.
 3. Perused the F.I.R., Case Diary, statements of the witnesses and the P.M. report.
 4. Despite valid service of notice, none appears on behalf of the informant to oppose bail.
 5. This appeal has been filed challenging the order dated 17.06.2021 passed by the learned Sessions Judge, Bargarh in C.T.(Spl.) Case No.25 of 2021 which arises out of Bhatli P.S. Case No.102 of 2021 for alleged commission of offences under Sections 341/294/323/325/302/506/34 of the Indian Penal Code read with Section 3(1)(r)/3(1)(s)/3(2)(v)/3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

6. Learned counsel for the appellant submits that the appellant is in custody since 05.06.2021 and the investigation of the case has been concluded in the meantime and charge sheet has been submitted. It is further submitted by the learned counsel for the appellant that the appellant was only present at the spot while the principal accused, Samaru dealt a blow on the head of the deceased by means of a wooden plank, as a result of which he sustained head injury and fell down at the spot and subsequently succumbed to the injuries. The Post Mortem report of the deceased reveals that one single blow was dealt by Samaru which is corroborated by the statement of eye witnesses. He further submits that the appellant is a man of the locality, therefore, there is no chance of absconding. In the event the appellant is released on bail the appellant will abide by the terms and condition that would be imposed by the Court. He also submits that the co-accused has already been released on bail by this Court in CRLA No.312 of 2021 by order dated 23.02.2022.

7. Learned counsel appearing for the State on the other hand opposes the prayer for bail on the ground that there is ample evidence that the present appellant was present and assaulted along with others. He further submits that it is true that admittedly blow was dealt by principal accused, which according to the opinion of the Doctor in the P.M. examination report, was the sole cause of death. However, he submits that considering the role played by the appellant, he is not entitled to be released on bail in this case.

8. Upon examination of the statements of the witnesses as well as P.M. Examination report, this Court is of the considered view that although while the appellant and others were present at the spot the fatal blow was dealt by the principal accused Samaru on the

deceased, as a result of which the deceased died. Therefore, it cannot be said at this stage that the appellant had intention or knowledge or had conspired to kill the deceased.

9. Having heard learned counsel for the parties and considering the fact and circumstances of the present case and the role of the present appellant in the alleged crime, I am inclined to grant bail to the appellant and it is directed that let the appellant be released on bail in the aforesaid case on furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter. It is open to the Court in seisin of the matter to impose any other condition(s) as would be deemed fit and proper in the facts and circumstances of the case to ensure attendance of the appellant during trial in the Court.

10. The order dated 17.06.2021 passed by the learned Sessions Judge-cum-Special Judge, Bargarh in C.T.(Spl) Case No.25 of 2021 is set aside.

11. With the aforesaid observation the CRLA is disposed of.

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

Jagabandhu

(A.K. Mohapatra)
Judge