

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.358 of 2021

Kunaj Bata

....

Appellant

Mr. Manas Chand, Advocate

-versus-

State of Odisha and another

....

Respondents

Mr. M.K. Mohanty, A.S.C.

*Mr. Satyajit Mohapatra, Advocate for
Respondent No.2*

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

10.05.2022

Order No.

10. 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. The present appeal is directed against the order dated 26.07.2021 passed by the learned Additional District and Sessions Judge-cum-Special Judge, Jajpur Road in Special G.R. Case No.29 of 2021 arising out of Jajpur Road P.S. Case No.182 of 2021 for alleged commission of offence under Sections 341/324/326/307/34, I.P.C. read with Section 3(1)(r)(s)/3(2)(va) of the S.C. and S.T. (PA) Act and subsequently turned to under Sections 302/109/34, I.P.C. read with Section 3(1)(r)(s)/3(2)(va) of the S.C. and S.T. (PA) Act.
4. Heard learned counsel for the Appellant as well as learned Additional Standing Counsel for the State-Respondent.
5. The case of the prosecution, in brief, is that on 04.05.2021

evening at about 7.30 P.M., while the informant paternal uncle Harihara Sethy was at Goshahla chhaka at that time one Deepak Bata reached there and by abusing the said Harihara Sethy assaulted him by means of a knife for which Harihara fell down on the ground. It is also alleged that at that time, the said accused Deepak abused Harihara by his caste by saying that why harihara is making quarrel with the brother of Deepak, namely, Chagala and that time the brother of Deepk Chagala reached there and instructed Deepak to kill Harihara and both of them left this place and the injured Harihara was shifted to hospital where he succumbed to the injury. Hence, this case.

6. It is submitted by learned counsel for the appellant that the appellant is in custody since 24.05.2021. In the meantime, investigation has been concluded and charge-sheet has been submitted. He further submits that initially the petitioner was not named in the F.I.R., however, during investigation, the name of the appellant come out and some of the witnesses have stated that prior to the incident, Deepak came to him by his motorcycle and abused the deceased in filthy languages naming his caste.

7. Further, learned counsel for the appellant submits that the appellant was not participated in the alleged crime and the appellant has been falsely implicated in the present case. He further submits that there is no scope for absconding or fleeing away from the hands of the justice, as the Appellants are permanent residents of the locality.

8. Learned counsel for the State-Respondent vehemently opposes the prayer for bail of the appellant and on the other hand, submits that it is true, initially, the name of the appellant has not named in the F.I.R. and during investigation advanced, the name of the appellant came into picture. Hence, the appellant implicated in this case. He further submits that the role of the appellant in the case is conspiracy and that the nature of offence is serious, the prayer for bail at the behest of the appellant

may be rejected.

9. Learned counsel for the informant appearing in Court today and opposes the prayer for bail of the appellant on the ground that the statement of the witnesses. He further submits that the present appellant had seen in the village in his bike along with the brother Deepak Bata. He also submits that the present appellant was also the main assailants and he managed to escape from the spot at the commission of alleged crime and that the role of the appellant in the conspiracy cannot be denied. Hence, the prayer for bail should be rejected.

10. Having heard rival contentions made by learned counsels for the parties and taking into consideration the surrounding circumstances and 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 26.07.2021 passed in CRLA No.358 of 2022 is hereby set aside.

11. 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.

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

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

(A.K. Mohapatra)
Judge