

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.599 of 2022

1. Binayak Behera

2. Mitu Mallik

....

Appellants

Mr. T.K. Acharya, Advocate

-versus-

1. State of Odisha

2. Smt. Rajani Behera

....

Respondents

*Mr. Manoranjan Mishra,
Addl. Standing Counsel*

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

**ORDER
05.09.2022**

Order No.

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

Learned counsel for the State submits that the notice on the informant is sufficient.

None appears on behalf of the informant.

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

This is an appeal under section 14-A of S.C. & S.T. (PoA) Act, 1989 in connection with Special G.R. Case No.01 of 2020 arising out of Khallikote P.S. Case No.04 of 2020 pending in the Court of learned Additional Sessions Judge, Khallikote for offences punishable under sections 376-D/323/506 of the Indian Penal Code, section 25(1-B)(a) of the Arms Act and sections 3(1)(r)(s)/3N(i)(2)(va)

of the S.C. & S.T. (PoA) Act.

The appellants moved an application for bail before the Court of learned Special Judge, Khallikote which was rejected on 13.07.2022.

Learned counsel for the appellants submitted that the appellants were taken into judicial custody since 18.01.2020 and they have been charge sheeted under sections 376-D/323/506 of the Indian Penal Code, section 25(1-B)(a) of the Arms Act and sections 3(1)(r)(s)/3N(i)(2)(va) of the S.C. & S.T. (PoA) Act. It is further submitted that when the appellants earlier approached this Court in CRLA No.468 of 2020 as per order dated 21.02.2022, the bail application was rejected and liberty was granted to the appellants to renew the prayer for bail after examination of the victim in the trial Court. Learned counsel further submitted that in the meantime, the victim has been examined in the trial Court as P.W.2 and though she has supported the prosecution case but in her cross-examination, she has stated that the appellant no.2 Mitu Mallik is her paternal uncle and appellant no.1 Binayak Behera is her cousin brother and she had not noticed the appellants when she opened the door of her house and that they had not come to her house in the night of occurrence. She further stated that she scribed the F.I.R. and being asked by the police, she had mentioned/inserted the names of the appellants. Learned counsel further submitted that in view of such evidence adduced by the victim in the trial Court and the change in the circumstances, the bail application of the appellants may be favourably reconsidered.

Learned counsel for the State placed the statement of the victim and submitted that the victim has given a clean chit to the appellants in her cross-examination.

Considering the submissions made by the learned counsel for the respective parties, the period of detention of the appellants in judicial custody and the nature of evidence adduced by the victim, I am inclined to reconsider the prayer for bail and direct the appellants to be released on bail.

Let the appellants be released on bail in the aforesaid case on furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) each with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with further conditions as the learned Court may deem just and proper with further condition that the appellants shall appear before the learned trial Court on each date to which the case would be posted for trial.

Violation of any of the conditions shall entail cancellation of bail.

The CRLA is accordingly disposed of.

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

(S.K. Sahoo)
Judge