

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.380 of 2021

Ananta Bahabal Katual

....

Petitioner

Mr. S.K. Jena, Advocate

-versus-

State of Odisha and others

.... ***Opposite Parties***

Mr. K.K. Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

21.04.2022

Order No.

06.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. The present criminal revision has been filed under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 challenging the order dated 01.07.2021 passed by the learned District and Sessions Judge-cum-Special Judge, Bargarh in Criminal Appeal No.1 of 2021 thereby dismissing the Appeal confirming the order dated 07.06.2021 passed by the learned Principal Magistrate, Juvenile Justice Board, Bargarh in CT-JGR No.16/30 of 2021 by virtue of the impugned order of the impugned order, leaned court has refused to grant bail to the CICL-petitioner.
3. The facts of the case, in brief, is that one Biranchi Bag son of late Kartik Bag of village Bhatimundain the district of Bargarh lodged a plain paper F.I.R. before the Attabira Police Station inter alia alleging that on 05.04.2021 at about 1.00 P.M. while his

daughter Rani Bag aged about 12 years was playing in front of his house, the present petitioner along with another person of the same village took away the victim to a lonely place and thereafter touched the private parts of the victim and committed sexual assault upon her. After the incident, the petitioner threatened the victim to kill her if she discloses the incidents before anybody. Thereafter the victim disclosed the incident to her parents and complained pain in her private part. On the basis of such information, the case was registered under Section 376-DB, I.P.C. read with Section 6 of the POCSO Act.

4. Heard Mr. S.K. Jena, learned counsel for the Petitioner as well as Mr. K.K. Nayak, learned Additional Standing Counsel for the State.

5. Perused the case diary, statement of the witnesses and relevant materials on record.

6. Learned counsel for the petitioner submits that the petitioner is a CICL is in custody since 13.04.2021 and that the investigation of the case has been concluded and charge-sheet has been submitted in the meantime. It is further submitted by leaned counsel for the petitioner that the CICL is an innocent poor boy in the locality and he has been falsely implicated in the present case. He further submits that the false acquisition has caused irreparable mentally injury to the CICL and further his career is in deprecate.

7. It is also submitted by leaned counsel for the petitioner that after the petitioner was arrested on 13.04.2021, he has been produced before the court of Principal Magistrate Juvenile Justice, Bargarh.

The present appeal has been filed challenging the order dated 05.01.2021 passed by the learned Additional Sessions Judge-cum-Presiding Officer. Children's Court, Dhenkanal in Case No.J.C. CT(SS) 11 of 2020 arising out of Hindol P.S. Case No.64 dated 21.307.2020 thereby while dismissing the application for bail of the appellant/juvenile conflicts with law.

4. It is alleged that the appellant along with his other family members had brutally assaulted the victim by bamboo lathi where the victim succumbed to the injuries.

5. It is submitted by learned counsel for the appellant that the appellant is languishing in jail custody since July, 2020 and in the meantime, investigation has been concluded and charge-sheet has been submitted. He further submits that the trial has commenced. However, he expresses his apprehension that the trial may not be concluded in near future.

6. Further, learned counsel for the appellant submits that the appellant is a juvenile, who is entitled to get the benefit of Juvenile Justice Act and that the CCL is in custody for a long time, which affects the mental condition of the CCL. He also submits that other co-accused persons have already been released on bail. Further, learned counsel for the CCL submits that there is omnibus allegation against the CCL and he has no specific allegation of overt-act made against the CCL. It is further contended by learned counsel for the CCL that the CCL was carry out the words of hardcore criminal of the locality and as such, he is entangled in this case. It is also submitted that there is no other criminal antecedents and there is no chance of absconding of the appellant and that taking into account

his period of detention, he may be released on bail.

7. Learned counsel for the State, on the other hand, submits that nature of allegation against the CCL is very serious in nature and he further submits that in view of Section 12 of the J.J. Act safety of the CCL is first priority. He further submits that the CCL may not be safe if he is in jail and allow him to live in the locality. On such grounds, learned counsel for the State objects the bail of the CCL.

8. It is not disputed that the CCL is not received proper care and from his family particularly his parents. Therefore, he needs counseling or supervision.

9. On query, learned counsel for the State submits that the CCL has no criminal antecedents.

10. Considering the submissions made by learned counsel for the appellant, keeping in views the provision under Section 12 of the 2015 Act, the period of detention of the appellant in the Observation Home and absence of any material that while on bail the appellant is likely to come in association with any known criminal or will be exposed to moral, physical or psychological danger or his release would defeat the ends of justice, I am inclined to release the appellant on bail.

11. Accordingly, the appellant is directed to be released on bail on his father or any family member executing personal bond for a sum of Rs.30,000/-(rupees thirty thousand) with two solvent sureties each of the like amount to the satisfaction of the learned Additional Sessions Judge-cum-Presiding Officer. Children's Court, Dhenkanal and also on filing an affidavit by such family member before the

concerned Court to the effect that:-

- I. The petitioner shall be responsible for the well-being of the appellant;
- II. he shall ensure that the appellant does not fall into bad company; and
- III. he shall ensure the presence of the appellant before the learned Additional Sessions Judge-cum-Presiding Officer. Children's Court, Dhenkanal on each date when the case would be posted for inquiry.

12. With the aforesaid observation, the impugned order dated 05.01.2021 passed by the Additional Sessions Judge-cum-Presiding Officer. Children's Court, Dhenkanal in the aforesaid case is set aside.

13. The CRLA is accordingly allowed.

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

(A.K. Mohapatra)
Judge