

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.627 of 2022

Bijay Kumar Nayak* *Appellant

Mr. T.K. Mishra, Advocate

-versus-

1. State of Odisha

2. Victim

.... Respondents

Mrs. Susamarani Sahoo

Addl. Standing Counsel

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

**ORDER
10.10.2022**

Order No.

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

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

The victim-respondent no.2 on being noticed appeared in person and arrangement was made by the Registry to oppose the bail application from the V.C. Cabin (Camera Switched Off).

This is an appeal under section 14-A of S.C. & S.T. (PoA) Act, 1989 in connection with G.R. Case No.514 of 2022 arising out of Koraput Town P.S. Case No.126 of 2022 pending in the Court of learned Sessions Judge

-cum- Special Judge, Koraput at Jeypore for offences punishable under sections 417/420/376(2)(n) of the Indian Penal Code and sections 3(1)(r)(s)/ 3(2)(va) of the S.C. & S.T. (PoA) Act.

The appellant moved an application for bail before the Court of learned Sessions Judge -cum- Special Judge, Koraput-Jeypore which was rejected on 01.08.2022.

Learned counsel for the appellant submitted that the appellant is in judicial custody since 26.02.2022 and he has been charge sheeted under sections 417/420/376(2)(n) of the Indian Penal Code and sections 3(1)(r)(s)/3(2)(va) of the S.C. & S.T. (PoA) Act. He further submitted that the appellant instituted a case against the victim-respondent no.2 for commission of offences under sections 380/294/506 of the Indian Penal Code in which she was taken into judicial custody and after being released on bail, she lodged one F.I.R. against the appellant before the Inspector in-charge of Kotaput Town police station on 29.06.2020 and accordingly, Koraput Town P.S. Case No.192 of 2020 was registered under section 498-A of the Indian Penal Code in which the victim mentioned herself to be the wife of the appellant though she stated the name of the appellant as Ajaya Nayak. Learned counsel further submitted that the appellant and the accused Ajaya Nayak in Koraput Town P.S. Case No.192 of 2020 is the one and same person. It is further submitted that the

ingredients of the offence under section 376(2)(n) of the Indian Penal Code are not attracted and on being vindictive because of her arrest and taken into custody in connection with the F.I.R. lodged by the appellant, she has foisted the case and therefore, the bail application of the appellant may be favourably considered.

Learned counsel for the State on instruction from the victim who is present with her in the V.C. Cabin submitted that the victim has denied to have lodged any F.I.R. on 29.06.2022 in Koraput Town police station and she is not the informant in Koraput Town P.S. Case No.192 of 2020.

Whether the accused in the present case (appellant) and the accused in Koraput Town P.S. Case No.192 dated 29.06.2022 is the one and same person or not and whether the informant in the said case and the victim in the present case is the one and same person is to be adjudicated by the learned trial Court at the appropriate stage and it would not be proper to give any opinion in that respect. However, after hearing the learned counsel for both the parties and on going through the 161 Cr.P.C. and 164 Cr.P.C. statements of the victim and the nature and gravity of the accusation against the appellant, I am not inclined to release the appellant on bail. The prayer for bail of the appellant stands rejected.

The appellant is at liberty to renew his prayer for bail after examination of the victim in the trial Court.

Accordingly, the CRLA is disposed of.

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

(S.K. Sahoo)
Judge

RKM

