

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.401 of 2021

***Hemanta Rout @ Mitika and
another*** ***Appellants***

Mr. J.K. Majhi, Advocate

-versus-

State of Odisha and another ***Respondents***

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

CORAM:

JUSTICE A.K. MOHAPATRA

**ORDER
10.05.2022**

Order No.

- 04.
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 19.07.2021 passed by the learned Sessions Judge-cum-Special Judge, Keonjhar in Special Case No.77 of 2015 arising out of Keonjhar Town P.S. Case No.119 of 2021 corresponding to G.R. Case No.586 of 2015 for alleged commission of offence under Sections 363/366-A/342/506/376-D/109/34, I.P.C. read with Section 3(2)(v) of the S.C. and S.T. (PA) Act and Section 6 of the POCSO Act.
 4. Heard learned counsel for the Appellants as well as learned Additional Standing Counsel for the State-Respondent.
 5. The case of the prosecution allegation leveled against the appellants is that on dated 22.04.2015 one Shiva Narayan Das lodged an FIR before IIC, Keonjhar Town P.S. alleging therein that on 20.04.2015

his sister, namely, Bhabani Das aged about 15 years, had been to temple. When victim was not returned to her house at that time informant along with family members are searched here and there but he has not found to the victim on suspicion someone culprits kidnapped to her and for which the informant lodged the FIR before the Police station. Basing on such report the IIC, Keonjhar Town P.S. registered the FIR and started investigation and the appellants are arrested on 11.06.2021 now languishing inside the jail custody. Then the appellants are moved their bail application before the court of learned Sessions Judge-cum-Special Judge, Keonjhar in which the learned court below has been pleased to reject the bail application of the appellants on 19.07.2021 for which the appellants getting no other way filed this criminal appeal before this Court.

6. It is submitted by learned counsel for the appellants that the appellant is in custody since 11.06.2021. In the meantime, investigation has been concluded and charge-sheet has been submitted. He further submits that the victim was taken by one Sunil Mandal, who is the principal in the case. On the date of occurrence, the principal accused forcibly committed sexual act on the victim and the present appellants has been falsely implication in this case. Further learned counsel for the appellants submits that the principal accused has already been released on bail by the learned court below wherein the informant was noticed and appeared before the learned court below. Thereafter, the statement of the victim recorded under Section 164, Cr.P.C. wherein she has been implicated the present appellants and on the basis of the statement of the victim, the appellants are in custody since 11. 06.2011.

7. Further, learned counsel for the appellants submits that the appellants have no role to play in the alleged occurrence and they have been falsely implicated in this 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, on the other hand, submits that the allegation made against the Appellant is serious in nature. He further submits that considering the gravity of offence, the prayer for bail at the behest of the appellant may be rejected.

9. Having heard 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 appellants, I am inclined to release the appellants on bail. Accordingly, the impugned order dated 26.07.2021 passed in CRLA No.358 of 2022 is hereby set aside.

10. Let the appellants be released on bail in the aforesaid case subject to furnishing a bail bond of Rs.30,000/-(rupees thirty thousand) each 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.

11. 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