

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.441 of 2021

Bhuta @ Uttam Biswal

.... ***Appellant***
Mr.Jyotirmaya Sahoo,*Advocate*

-versus-

State of Odisha & another

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

22.03.2022

Order No.

5. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the appellant as well as the learned Additional Standing Counsel.
3. Perused the Case Diary, F.I.R. and 161 Cr.P.C. statements of the witnesses
4. The appeal is directed against the order dated 27.05.2021 passed by the learned Additional Sessions Judge-cum-Special Judge, Khallikote in Spl.G.R.Case No.09 of 2021 arising out of Kodala P.S.Case No.79 of 2021, in rejecting the bail application of the appellant.
5. The Prosecution case in brief is that the informant Rajeswari Nayak lodged an F.I.R. before the I.I.C., Kodala P.S. alleging therein that on 15.02.2021 at about 10 P.M. one Jitendra Palei along with 9 to 10 other persons arrived at the house of the informant in 3 to 4 motor cycles and recovered one bag of ganja from the straw heap.

Then they told that the informant's husband had committed theft of ganja and asked him to return the rest ganja, otherwise he would be killed. On the next day morning said Jitendra Palei and two others came to the house of the informant and enquired about her husband. One of them contacted the informant's husband over phone and ascertained that he was at Kalimeghi. Subsequently the informant came to know that her husband was kidnapped by the above persons from Kalimeghi and brutally assaulted him, who subsequently died.

6. It is submitted by the learned counsel for the appellant that the appellant is in custody since 10.05.2021. It is further submitted by the learned counsel for the appellant that the investigation of the case has been completed and charge sheet has been submitted. Learned counsel for the appellant submits that the petitioner has not been named in the FIR. It is further submitted by the learned counsel for the appellant that since the appellant is a permanent resident of the locality there is no chance of his absconding and in the event the appellant is released on bail he shall cooperate with the investigation as well as the trial of the case.

7. Learned counsel for the State on the other hand opposes the prayer for bail of the appellant on the ground that the allegation is serious in nature. Accordingly he urges for rejection of bail application of the appellant.

8. Considering the nature of allegations made in the F.I.R. as well as the custodial detention of the appellant and the fact that the petitioner has not been named in the F.I.R., this Court is inclined to release the appellant on bail on furnishing a bail bond of Rs.50,000/- (Fifty thousand) with two local solvent sureties for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions:

- i) He shall not tamper with the prosecution evidence.
 - ii) He shall not make any attempt to approach or influence the informant.
 - iii) He shall not threaten or terrorise the informant in any manner whatsoever .
 - iv) He shall appear before the concerned Police station once in a fortnight preferably on Sunday between 10 A.M. to 1 P.M. till completion of trial.
 - v) Violation of any of the above conditions shall entail cancellation of the bail
9. With the aforesaid direction the impugned order is set aside. The appeal is accordingly allowed.
10. Issue urgent certified copy of this order as per Rules.

RKS

