

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.510 of 2020

Pradeep Kumar Panda

....

Appellant

Mr. P.S. Das, Advocate

-versus-

State of Odisha and another

....

Respondents

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

Mr. J.K. Panda, Advocate for the

Respondent No.2

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

05.07.2022

Order No.

18.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the appellant, learned counsel for the respondent no.2 as well as learned counsel for the State. Perused the case record as well as statement of witnesses.
3. The present appeal has been filed under Section 14-A of the S.C. and S.T. (P.A.) Act and is directed against the order dated 28.09.2020 passed by the learned Additional Sessions Judge-cum-Special Judge under SC & ST (P.A.), Khallikote in Special G.R. Case No.09 of 2020 arising out of Khollikote P.S. Case No.266 of 2020, which was registered for commission for the offence under Sections 147/148/323/324/294/326/307/302/149, I.P.C. read with Sections 3(2)(r)(s)/3(2)(v)(va) of the S.C. and S.T. (P.A.) Act thereby

rejecting the bail application of the appellant.

4. The prosecution story, in a nutshell is that the informant appeared before the before the Khallikote Police Station on 04.07.2020 morning lodged an F.I.R. inter alia alleging that the accused persons were involved in illegal liquor trade during Corona Epidemic. The villagers were unhappy for that. However, on 03.07.2020, the local B.D.O. came to the village at about 7.00 P.M. in the evening to create awareness about the Corona Epidemic. Many people of the village attended in the said meeting and discussed with the B.D.O. After the B.D.O. leaving the village, the son of the informant along with deceased Pintu Das and many others were discussing in the meeting self-same as to what safety measure to be taken to Corona. At that time at about 9.00 P.M. the accused persons including the present appellants arrived at the spot being armed with weapons and assaulted the son of the informant, the deceased and others. It is also alleged that one Dhanu Palei assaulted the deceased Pintu Das by means of sword. Thereafter other accused persons assaulted the deceased and other members are present in the meeting as a result of which the deceased Pintu Das fell down at the spot and later on he declared dead. The informant has further stated that many of their co-villagers have also sustained injuries and some of them were serious and were shifted to the hospital.

5. It is submitted by learned counsel for the appellant that the appellant is in custody since 08.08.2020 and that the investigation has been concluded by the Investigating Officer and final charge-sheet has been submitted.

6. Learned counsel for the appellant further submits that the

present appellant was only person at the spot and he did not participate in the assault. Both groups of the villagers indulged by themselves as a result of which the members of both the sides had sustained injuries. It is further stated by learned counsel for the appellants that the some of the accused persons have also sustained injuries in the said fighting. However, learned counsel for the appellant further emphatically submits that none of the eye witnesses have stated anything about the appellant assaulting anybody. In such view of the matter, it is urged before this Court that the appellant be released on bail and in the event released on bail he shall abide any terms and conditions as would be imposed by this Court including the condition that the appellants shall appear before the trial court on each and every date fixed for trial.

7. Learned counsel for the respondent, on the other hand, submits that the appellant was present at the spot. He further submits that one Dhanu Palei and Tofan Palei were the principal assailants and other accused persons including the present appellants were also present at the spot of occurrence and they have assaulted to the injured informant party members.

8. Relying upon the statement of the witnesses, namely, Sanjaya Subudhi, Ranjan Bhang, Dhruba Tahal, Suman Subudhi, Narayan Subudhi, Bipina Behera, Swadhin Jali, Promod Tahal, Gobinda Das, Kholana Tahal, Jhulu Das, Sanjay Sadhab, who all eye witnesses, learned counsel for the respondent no.2 submits that they have all implicated the present appellant in the alleged crime. In such view of the matter learned counsel for the respondent no.2 urges that the bail application of the appellants be rejected.

9. Learned counsel for the State, on the other hand, supporting the contentions raised by learned counsel for the informant submits that there are direct evidences available against the present appellant and that the present appellant had assaulted the deceased as a result of which the deceased succumbed to the injuries at the spot. He further indicates that the rivalry which is developed in the locality team to the present occurrence is likely to be aggravated. Further otherwise peaceful atmosphere is likely to be disturbed in the event the appellants are released on bail.

10. It is further submitted by learned counsel for the State that the eye witnesses have clearly implicated the present appellant, therefore, the appellant should not be enlarged on bail at this juncture and further in the event the appellant is released on bail there is every possibility that he might be tampered with the prosecution evidences and he shall try to threaten or terrorize or influence the prosecution witnesses.

11. Having heard learned counsel for the respective parties as well as upon careful scrutiny the materials placed before this Court including the case diary and the statements of the witnesses, this Court is of the considered view and keeping in view the role played by the present appellant as well as taking into consideration the custodial detention of the appellant, this Court is inclined to release the appellant on bail. Accordingly, the impugned order dated 28.09.2020 passed in Special G.R. Case No.09 of 2020 is hereby set aside.

12. Let the appellant be released on bail in the aforesaid case subject to furnishing a bail bond of Rs.50,000/-(rupees fifty

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.

13. With the aforesaid observation, the Appeal is allowed without any cost.

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

Jagabandhu

