

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.454 of 2021

Lakshyapati Naik and others ***Appellants***
Mr. J.N. Panda, Advocate
-versus-
State of Odisha and another ***Respondent***
Mr.M.K. Mohanty, ASC for State-Respondent No.1

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
29.03.2022

Order No.

05. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Appellants and learned counsel for the State-Respondent No.1. Perused the Case Diary, F.I.R. and statement of the witnesses.
3. This appeal has been filed by the Appellants challenging the order dated 26.08.2021 passed by the learned Addl. Sessions Judge-cum-Special Judge, Dharamgarh in C.T. No.51/13 of 2021, arising out of Dharamgarh P.S. Case No.24 of 2021, for commission of alleged offence under Sections 452/341/302/201/34 of I.P.C. read with Section 3(2)(v)(va) of S.C. & S.T. (PA) Act, rejecting the bail application filed by the Appellants.
4. The case of the prosecution, in brief, is that on 07.02.2021 one Tanmaya Sabar lodged a written report before the IIC, Dharamgarh P.S. alleging therein that on same day at about 2.40 PM, the elder brother of his father was taking lunch in his house, at that time Appellant No.1 and one Panchanan Naik and other

Appellants came there holding thenga, badi etc. and dragged the victim outside. The further allegation is that the Appellants dealt kick & fist blows to the victim. Accused Panchanan Naik dealt an axe blow on the hand of Pitambar Sabar, as a result of which he died on the spot. On the basis of the aforesaid report, Dharamgarh P.S. Case No.,24 of 2021 has been registered.

5. Learned counsel for the Appellants submits that the accused Appellants were in custody since 10.02.2021. The police after completion of investigation submitted charge-sheet against the present Appellants. It is further submitted on the statement of the eye witness that one Panchanan Naik had assaulted one single axe blow on the head of the deceased, as a result of which, the deceased succumbed to the injury. It is submitted although the principal accused belonging to one family and the only allegation against the accused that they were present at the spot. Further it is submitted that they are ready and willing to abide by the terms and conditions fixed by this Court, in the event they are released on bail.

6. Learned counsel for the State on the other hand submits that there was a dispute between the deceased and the present Accused persons. The principal accused has given one axe blow on the head of the deceased, whereas the other Appellants were present at the spot. Accordingly, the State Counsel urges that they participate in the crime, so their bail applications may be rejected on that score only.

7. Having regard to the facts and circumstances of the case and considering the nature of allegation made and the period of detention of the accused Appellants and the materials on record and the

statement of witnesses and the period of detention of the Appellants, this Court sets aside the order dated 26.08.2021 passed by the learned Addl. Sessions Judge-cum-Special Judge, Dharamgarh in C.T. No.51/13 of 2021, arising out of Dharamgarh P.S. Case No.24 of 2021. Further it is directed that let the Appellants be released on bail subject to furnishing bail bond of Rs.50,000/- (Rupees Fifty thousand) each with one solvent surety each for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions:

- i) They shall appear before the trial court on each and every date as fixed by the court;
- (ii) They shall not tamper with the prosecution evidence;
- (iii) They shall not influence or threaten any prosecution witnesses and cooperate in the investigation;
- (iv) They shall not leave the jurisdiction of the court below without prior permission;
- (v) They shall furnish their present address and mobile numbers before the local police;
- (vi) Violation of any of the above conditions, would entail cancellation of bail of the Appellants; and
- (vii) The court in seisin of the matter may impose any additional condition(s), if situation so warrants.

8. With the above direction, the CRLA is accordingly allowed.

9. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge