

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.501 of 2021

Pratima Sahu

....

Appellant

Mr. Santanu Kumar Sarangi, Advocate

-versus-

State of Odisha

....

Respondent

Mr.P.C.Das, ASC for State-Respondent

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

29.03.2022

Order No.

07.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).

2. Heard learned counsel for the Appellant and learned counsel for the State-Respondent. Perused the Case Diary, F.I.R. and statement of the witness.

3. This appeal has been filed by the Appellant challenging the order dated 19.07.2021 passed by the learned District & Sessions Judge-cum-Special Judge, Nuapada in SA Case No.64 of 2020, arising out of Jonk P.S. Case No.134 of 2020, for commission of alleged offence under Section 302 of I.P.C. read with Sections 3(2)(v) of S.C. & S.T. (PA) Act, rejecting the bail application filed by the Appellant.

4. The case of the prosecution, in brief, is that on the basis of FIR lodged by one Maheswari Bariha, W/o. Binod Bariha of Vill-

Gotma, Jonk, Nuapada, Jonk Police registered the aforesaid case and in course of investigation arrested the Appellant on 08.08.2021. She is in jail custody till now. The prosecution case as revealed from the FIR is that the Appellant had married one Kamal Sahu and out of the said wedlock two daughters and a son were born. It is alleged that 4 years prior to the date of lodging of the FIR the said Kamal Sahu had assured to marry the daughter (deceased) of the informant and accordingly he had kept her in a rented premises. It has been alleged that when the Informant's daughter, the deceased used to go to the house of the Appellant there were frequent quarrels. That on the date of incident, i.e. on 06.08.2020, it is alleged that the deceased went to the Appellant's house with the intention to stay there and during that time, Kamal Sahu, husband of the Appellant was not at home. It is further alleged that the Appellant and the deceased had repeated quarrels and it is alleged that at about 3 A.M., they started quarrelling again and the Appellant strangled the deceased with a saree as a consequence she allegedly died.

5. Learned counsel for the Appellant submits that the Appellant is a married lady and is in custody since 08.08.2021. The police after completion of investigation submitted charge-sheet against the Appellant. It is submitted that there are no eye witnesses to the occurrence. Further the alleged extra judicial confession has been made by the Appellant before the co-villager. But the said material against the Appellant is to be tested in the trial and not at the stage of bail. It is further submitted that the Appellant is a married lady having three children, who are completely dependent on her. It is also a fact that the trial is not likely to be completed in the near

future. In such view of the matter, learned counsel for the Appellant prays for release of the Appellant on bail on such terms and conditions as this Hon'ble Court deems just and proper.

6. As submitted by learned counsel for the State that notice has been issued to the informant, which has been received by the husband of the Informant, namely, Binod Bariha. Accordingly, service of notice on Informant is sufficient.

7. Learned counsel for the State on the other hand objects to the bail application of the Appellant and submits that there is confessional statement against the Appellant, therefore, the bail application of the Appellant may be rejected on the face of it.

8. 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 Appellant and the materials on record, this Court sets aside the order dated 19.07.2021 passed by the learned District & Sessions Judge-cum-Special Judge, Nuapada in SA Case No.64 of 2020, arising out of Jonk P.S. Case No.134 of 2020. Further it is directed that let the Appellant be released on bail subject to furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one solvent surety for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions:

- i) She shall appear before the trial court on each and every date as fixed by the court;
- (ii) She shall not tamper with the prosecution evidence;

(iii) She shall not influence or threaten any prosecution witnesses and cooperate in the investigation;

(iv) She shall not leave the jurisdiction of the court below without prior permission;

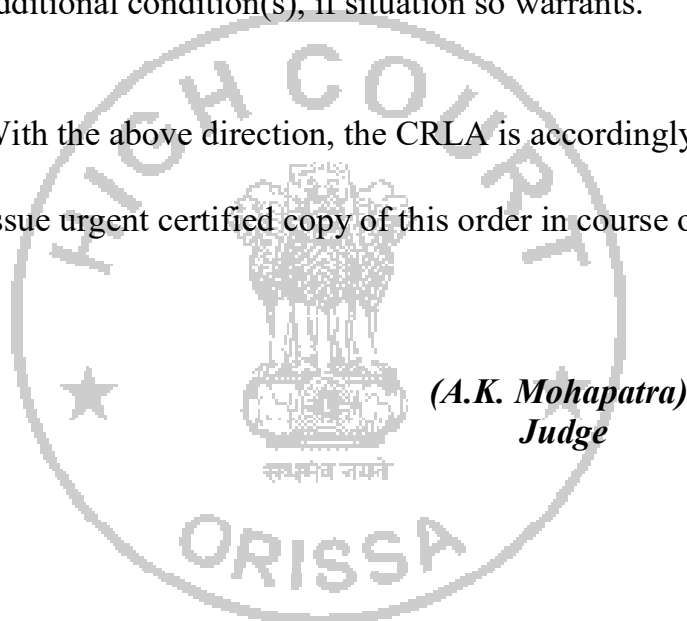
(v) She shall furnish his present address and mobile number before the local police;

(vi) Violation of any of the above conditions, would entail cancellation of bail of the Appellant; and

(vii) The court in seisin of the matter may impose any additional condition(s), if situation so warrants.

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

10. Issue urgent certified copy of this order in course of the day.



U.K.Sahoo