

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.515 of 2021

Biranchi Behera

....

Appellant

Mr. Panchanan Panigrahi, Advocate

-versus-

State of Odisha and another

....

Respondents

Mr.P.C. Das, ASC for State-Respondent No.1

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

28.06.2022

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 No.1. Perused the Case Diary, F.I.R. and statement of the witness on record.
3. This appeal has been filed by the Appellant challenging the order dated 20.09.2021, passed by the learned Special Judge, Kamakhya Nagar in C.T. (Spl.) Case No.01 of 2021, arising out of Bhuban P.S. Case No.03 of 2021, for commission of alleged offences under Sections 143/147/148/294/354/323/325/302/149 of I.P.C. read with Section 3(1)(r)(s)/3(2)(v)(va) of S.C./S.T. (POA) Act, rejecting the bail application filed by the Appellant.
4. The prosecution case, in brief, is that one Monali Guru lodged an F.I.R. before the I.I.C., Bhuban P.S. alleging inter alia that

on 2.1.2021 at about 7 a.m. her father Bijay Guru was sitting outside of his house. At that time, the present accused along with others being armed with bamboo balha, kati, thenga, tangia etc. reached at the spot and due to enmity they assaulted brutally to Bijay Guru to his head causing bleeding injury. It was further alleged that they fractured his hand, assaulted to his two brothers and abused in filthy languages. The injured Bijay Guru shifted to Dhenkanal Hospital and doctor declared him dead.

5. It is submitted by learned counsel for the Appellant that he is in jail custody since the date of his arrest, i.e. 2.9.2021. It is further submitted that the investigation of the case is over and police has submitted charge-sheet against the Appellant in the case. It is submitted that there is no specific overt act has been made against the Appellant and there is also no direct evidence. Since charge-sheet has been submitted in the meantime, there is no chance of the Petitioner to evade the process of trial.

6. Learned counsel for the State on the other hand submits that the nature of allegation made in the FIR is very serious. Accordingly, a prayer has been made to reject the bail application of the Appellant.

7. Considering the aforesaid facts and circumstances of the case and keeping in view the nature of allegation made and the period of detention of the Appellant, this Court sets aside the order dated 20.09.2021, passed by the learned Special Judge, Kamakhya Nagar in C.T. (Spl.) Case No.01 of 2021, arising out of Bhuban P.S. Case No.03 of 2021. It is further directed that let the Appellant be released on bail subject to furnishing a bail bond of Rs.30,000/-

(Rupees Thirty thousand) with two solvent sureties for the like amount to the satisfaction of the learned court in seisin over the matter subject to the terms and conditions as would be fixed by the trial court. Further, the court below shall do well to impose condition that the Appellant shall not influence or threaten or terrorize any of the prosecution witness, violation of which, it is open for the trial court to revoke the bail application of the Appellant and issue NBW and take the Appellant to custody forthwith.

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

U.K.Sahoo

