

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLA No.541 OF 2021

Pitambar Bhoi

....

Appellant

Mr.S.Padhee, Advocate

-versus-

State of Odisha & another

....

Respondents

Mr.G.Mohapatra,SC

CORAM:

MR. JUSTICE S.K. PANIGRAHI

ORDER

04.04.2022

Order No.

04

- 1.This matter is taken up by hybrid mode.
2. Heard learned counsel for the appellant and learned counsel for the State.
3. The appellant has preferred this criminal appeal challenging the order dated 04.03.2021 passed by the learned District & Sessions Judge, Bargarh in CT(Special) Case No.27 of 2020.
4. It is alleged in the FIR that the nephew-Naresh @ Dolamani Ray of the informant was missing since 28.06.2020 night from the working camp. On 01.07.2020, it came to the notice of the informant that his nephew has eloped with one Santoshini Bhoi and on 28.06.2020 night he had been to the house of his beloved with his friend-Basistha Juadi. Since they belong to 'gonda' caste the mother of Santoshini Bhoi, namely, Pankajini Bhoi and her brother Pitambar Bhoi made caste aspersions and asked the nephew of the informant as to why he came proximity to daughter and also shouted at him. It is alleged that Pitambar Bhoi and Basistha Juadi assaulted the nephew of the informant by means of a bamboo stick

as a result of which, the deceased fell down on the ground and died at the spot. Thereafter, Pitambar Bhoi and Basistha Juadi tried to conceal the evidence as well as threw the dead body of the deceased into the water of 'Tali bandha' of village Kead. Hence, the FIR.

5. Learned counsel for the appellant submits that Naresh Ray(the deceased) is a tractor driver. He was staying in a camp along with his friends Basistha Juadi, Mithun, Prashanta Juadi and Sukhadev Pradhan. During his stay, the deceased developed love affairs with the sister of Santoshini Bhoi of village Kead. Both were meeting each other in the night after having conversation over phone. Basistha Juadi was also in one-sided love with santoshini Bhoi and since last one month, the deceased and Basistha Juadi were not pulling well on the issue of dumping of soil in the tractor for which, he was in search of opportunity for taking revenge over the deceased. On the day of occurrence, Santoshini Bhoi called the deceased to a under construction house of her father. In the meantime, the mother of Santoshini Bhoi reached at the spot and picked up quarrel with the deceased. Taking advantage of his quarrel Basistha Juadi brutally assaulted the deceased by means of a bamboo stick which caused the death of the deceased.

Learned counsel for the appellant further submits that although all the witnesses have been examined during course of investigation, their statements recorded under Section 161 of the Cr.P.C. do not reveal any incriminating materials against the present appellant for his involvement in the alleged commission of offence. On the other hand, Basistha Juadi is the principal accused who had played vital role in commission of gruesome murder of the deceased. It is further submitted that some of the co-accused who are similarly situated with the present appellant have already been enlarged on

bail vide order dated 4th February, 2021 by this Court in CRLA No. 467 of 2020 and order dated 9th of February of 2021 in CRLA No. 480 of 2020. It is further submitted that, the appellant has been languishing in jail custody since 03.07.2020.

6. Learned counsel for the State-respondent vehemently opposed the bail prayer of the appellant.

7. Considering the submissions, facts and circumstances of the case as well as the period of detention of the appellant in custody for more than one and half year and factum of release of other co-accused who are similarly situated with the appellant, it is directed that the appellant be released on bail in the aforesaid case with some stringent terms and conditions as deemed just and proper by the learned court in seisin over the matter with further conditions that:-

- i. the appellant shall appear before the learned trial court on each date of posting of the case;
- ii. he shall not indulge himself in any criminal offence while on bail and
- iii he shall not tamper with the prosecution evidence in any manner.

8. Violation of any of the conditions shall entail cancellation of the bail.

9. The CRLA is accordingly disposed of

(S.K. Panigrahi)
Judge

LB

