

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.571 of 2021

Babu @ Sanjay Biswal

.... ***Appellant***
Mr.Manas Chand,*Advocate*

-versus-

State of Odisha & another

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

22.03.2022

Order No.

6. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the appellant as well as the learned Additional Standing Counsel.
3. Perused the Case Diary, F.I.R. and 161 Cr.P.C. statements of the witnesses
4. The appeal is directed against the order dated 08.10.2021 passed by the learned Additional Sessions Judge-cum-Special Judge, Kendrapara in T.R.Case No.09 of 2019 arising out of Rajnagar P.S.Case No.11 of 2019 in rejecting the bail application of the appellant.
5. The Prosecution case in brief is that on 21.01.2019 at about 7 A.M. in the morning while the informant was at his house he saw one co-accused Sipua Rout by coming to the Front Door of the house of Rabindra Sethi was abusing in filthy language with a threatening to kill Hemant Sethi by firing and being failed found Hemanta wanted

his whereabouts from Rabindra and by saying so co-accused brought two pistols from his pocket and at that time said Rabindra and Hemant some how managed to rounded up the co-accused Sipua Rout and snatched way two guns from the possession of Sipua Rout and handed over the same to the Gramrakhi namely, Trilochan Sethi. After half an hour of such occurrence the co-accused namely Bikram Rout with his brother and Salua Mohanty, son of Musha Rout and Dakua Rout reached there by their motorcycle and started abusing the villagers and by terrorizing the villagers one amongst the co-accused namely Bikram Rout fired three shots from his pistol from which in the first shot one dog was killed, second shot was found to be false one and the third shot hit the chest of one Kishore Sethi for which he succumbed to the injuries at the spot and as there was ill feeling between two groups of the village relating to tender of fish pond by hatching conspiracy such firing was made and suspecting the role of the appellant finally F.I.R. was lodged.

6. It is submitted by the learned counsel for the appellant that the appellant is in custody since 31.01.2019. It is further submitted by the learned counsel for the appellant that the investigation of the case has been completed and charge sheet has been submitted. Learned counsel for the appellant submits that co-accused has been released on bail. It is further submitted by the learned counsel for the appellant that since the appellant is a permanent resident of the locality there is no chance of his absconding and in the event the appellant is released on bail he shall cooperate with the investigation as well as the trial of the case.

7. Learned counsel for the State on the other hand opposes the prayer for bail of the appellant on the ground that the allegation is serious in nature. Accordingly he urges for rejection of bail

application of the appellant.

8. Considering the nature of allegations made in the F.I.R. as well as the custodial detention of the appellant and the fact that the petitioner one of the co-accused has been released on bail, this Court is inclined to release the appellant on bail on furnishing a bail bond of Rs.50,000/- (Fifty thousand) with two local solvent sureties for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions:

- i) he shall not indulge in similar nature of offence.
- ii) shall not threaten or terrorise the witnesses in any manner whatsoever .
- iv) He shall appear before the concerned Police Station once in a fortnight preferably on Sunday between 10 A.M. to 1 P.M. till completion of trial.
- v) Violation of any of the above conditions shall entail cancellation of the bail

9. With the aforesaid direction the impugned order is set aside. The appeal is accordingly allowed.

10. Issue urgent certified copy of this order as per Rules.

RKS

(A.K. Mohapatra)
Judge