

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLA No.904 of 2019

1.Raju Naik @ Naku
2.Santanu Naik

.... **Appellants**
Mr.Debasnan Das, Advocate
& Mr. S.S. Patnaik, Advocate
Versus

State of Odisha

.... **Respondent**
Mr S.S.. Pradhan Addl.Govt.
Advocate & Mr.P.C.Das, ASC

CORAM:
JUSTICE SAVITRI RATHO

Order No.

ORDER
30.08.2022

13. I have heard Mr. Debasnan Das and Mr. S.S. Patnaik, learned counsel for the appellants and Mr. S.S. Pradhan, learned Addl. Govt. Advocate and Mr. P.C. Das, learned Addl. Standing Counsel for the State of Odisha through hybrid mode.
2. On 23.08.2022, as the learned counsel did not have instructions regarding status of the trial, instructions were obtained through the Registry that the case is posted to 09.09.2022 for argument.
3. This appeal has been preferred by the appellants - Raju Naik @ Naku and Santanu Naik under Section 14-A (2) of SC & ST (POA) Act against the order dated 03.08.2019 passed by the learned Judge, Special Court, Kamakhyanagar rejecting their prayer for bail. The

appellants alongwith two others are facing trial in C.T. (Special) Case No.17 of 2019 in the Court of the learned Special Judge -cum- Addl. District and Sessions Judge, Kamakhyanagar for commission of offences for commission of offence under Sections 294/506/354-A/427/457/376-D/376 (2)(n)/34 of the Indian Penal Code read with Section 3 (1) (r) (s) (2) (v) (va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. This case arises out of Parjang P.S. Case No.149 of 2019.

4. The prosecution case in brief is that one day before Fagu Dashami, i.e., on 16.03.2019 the present appellants along with four other co-accused persons took the victim to the forest and raped her and after the said incident, they brought the victim from the forest and dropped her near her house. As they repeated this, she lodged FIR.

5. Learned counsels for the appellants submitted that the present appellants have no involvement in the alleged crime and they have been entangled in the case on account of village dispute. This would be apparent from the fact that the FIR has been registered on 04.06.2019 which is about three months after the alleged occurrence. The medical evidence does not support the allegation of rape and P.Ws.1 to 4 have not supported the prosecution case and as the appellants are in judicial custody since June, 2019, their prayer for

bail may be favourably considered. They rely on the decision of this Court in the case of **Ramesh Chandra Sahu vs State of Odisha** reported in **2021(83) OCR 570**.

6. The learned counsels appearing on behalf of the State vehemently opposed the prayer for bail submitting that a hapless widow has been the victim of gang rape and the appellants and four others were the culprits and taking advantage of her helplessness they have ravished her on a number of occasions. As they are rowdy in nature and two accused persons are absconding, some witnesses may have been reluctant to support the prosecution case but the victim lady who has been examined as P.W.5 has implicated the appellants. They have also submitted that the prayer for bail of co accused - Buna @ Jagannath in CRLA No.559 of 2019 has been disposed of as withdrawn by this Court and the trial being on the verge of completion, there is no ground to release the appellants on bail on the ground of delay as the maximum punishment prescribed for the offences alleged against the appellants is imprisonment for life.

7. Learned counsel for the appellants has filed the depositions of the P.W.1 to P.W.5 and has also served copies of the depositions on the learned counsel for the State. The victim informant has been

examined as P.W.5. The chargesheet reveals that the names of 24 witnesses have been mentioned in the chargesheet.

8. I have considered the submissions of the learned counsels and gone through the depositions of P.Ws.1 to 5. I am not inclined to release the appellants on the ground of delay in conclusion of trial, as the case is posted for argument to 09.09.2022. For the same reason, I am of the considered view that any observation vis-a-vis the evidence of the P.Ws will influence the learned trial Court. I therefore dispose of this Criminal Appeal permitting the appellants to move the learned trial Court for bail, if so advised.

9. The Criminal Appeal is disposed of with the aforesaid observations.

10. Urgent certified copy of the order be granted on proper application.

Copy of this order be sent to the Special Judge -cum- Addl. District and Sessions Judge, Kamakhyanagar, by the Registry.

(Savitri Ratho)
Judge