

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.576 of 2021

Manas Biswal

....

Appellant

Mr.Samarendra Mohanty, *Advocate*

-versus-

State of Odisha & another

....

Respondent

Mr .P.C.Das, A.S.C..

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

15.02.2022

Order No.

3. This matter is taken up through Hybrid Arrangement (virtual/Physical Mode).
2. Heard Mr.Samarendra Mohanty, learned counsel for the Appellant and Mr.P.C.Das, learned Additional Standing Counsel for the State-Respondent.
3. Perused the records and case diary.
4. Notice was issued to the informant-Respondent No.2. Although notice, which was issued by registered post with A.D. returned unserved with an endorsement that the addressee is absent. Mr.P.C.Das, learned Additional Standing Counsel on instruction submits that the notice issued, which was sent to the I.I.C. of the concerned Police Station has been served upon the informant. However, none appears for the informant.
5. The present appeal under section 14-A of SC & ST (PA) Act read with Section 439 of the Code of Criminal Procedure has been filed by the appellant challenging the order dated 21.10.2021 passed in C.T.Case No.183 of 2016 which arises out of Niali

P.S.Case No. 114 of 2014 by the Presiding Officer, Special Court, SC & ST (POA), Cuttack whereby the application for bail filed by the appellant has been rejected.

6. On the basis of an F.I.R. lodged by one Jyoti Gochhayat, the informant, a case under Sections 341,323,354,379,376,511 of the India Penal Code read with section 3 of S.C & S.T.(POA) Act was registered against one Surendra Biswal and subsequently the appellant has been implicated in the alleged crime and accordingly charge sheet has been submitted against the abovenamed two persons for alleged commission of offences under sections 342,379,376-D of the India Penal Code read with Section 3(1)(xi)/2(v) of SC & ST (POA) Act.

7. Learned counsel for the Appellant submits that the Appellant has been implicated in the present case falsely and without any specific materials against the Appellant. He further submits that the entire allegation in the F.I.R. is against the principal accused Surendra Biswal. He further submits that the said principal accused, Surendra Biswal, against whom the allegation of rape has been made, has been released on bail by this Court vide order dated 26.11.2015 passed in BLAPL No.5203 of 2015. The only allegation against the present Appellant is that he had abetted in the commission of the alleged offence. It is further stated by the learned counsel for the Appellant that the prosecution case has been developed from time to time and that the present Appellant has not been named in the F.I.R. It is only in the statement under Section 164 Cr.P.C. of the victim which was recorded after almost two months of the occurrence, the Appellant has been named with the allegation that he had caught hold of the hands of the victim while co-accused Surendra Biswal was ravishing the victim.

8. Learned counsel for the Appellant further submits that

although the Investigating Agency treated him as an absconder, he was very much present in the locality and he had no intention to run away from justice. Moreover after coming to know about the N.B.W. issued against the Appellant, he had approached this Court in ABLAPL No. 11446 of 2021 and pursuant to the direction of this Court, the Appellant had voluntarily surrendered before the learned trial Court. It is further submitted by the learned counsel for the Appellant that the Appellant is in custody since more than six months and that the investigation has been concluded and charge sheet has been filed. Therefore, there is no chance of tampering with the evidence. He further submits that upon medical examination the Doctor found no external injury on the person of the victim.

9. Learned counsel for the State submits that the Appellant has been implicated as an abettor in the crime and is liable to be punished along with the principal accused in this case for the alleged commission of offence. He further submits that the Appellant has been named in the statement of the victim recorded under section 164 Cr.P.C.

10. Considering the submission of the learned counsel for the respective parties, statement of the victim made at different stages and the medical examination report of the victim as well as the fact that the principal accused has already been released on bail by this Court, I am inclined to release the Appellant on bail in the above case, on furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter. Further terms and conditions shall be fixed by the court in seisin over the matter as would be deemed just and proper by the said Court.

11. The CRLA is accordingly disposed of.

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

RKS

(*A.K. Mohapatra*)
Judge

