

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRL REV No. 415 of 2021

(Arising out of the judgment and order dated 11.10.2021 passed in Criminal Appeal No.14 of 2021 by the learned A.D.J.-cum-Special Court under POCSO Act, Cuttack.

Saroj Paswan

.... Petitioner

-versus-

State of Orissa

.... Opp. Party

Advocates appeared in this case through Hybrid Mode :

For Petitioner

: *Mr.S.K.Das, Advocate*

For Opp. Party

: *Mr.K.K.Nayak, ASC*

CORAM:

JUSTICE SAVITRI RATHO

.....
Date of Order:24.01.2022
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Savitri Ratho, J.

In this CRLREV, the petitioner has challenged the judgment and order dated 11.10.2021 passed by the learned A.D.J.-cum-Special Court under POCSO Act, Cuttack in Criminal Appeal No.14 of 2021 confirming the judgment and order dated 21.09.2021 passed by the learned Principal Magistrate Juvenile Justice Board, Cuttack in JJC Case No.102 of 2021 rejecting the prayer for bail of CICL-petitioner.

2. The brief facts of the case is that the informant-Santosh Agrawal was running a textile business. On 13.9.2021, while he closed his shop, cash of Rs.6,50,000/- was kept in the cash box of the shop. The said cash was stolen by unknown culprits by breaking open the grill and lock of the shop. The petitioner was working in the cloth godown of the informant and had committed the theft alongwith his uncle with whom he was staying.

Badambadi P.S. Case No.271 of 2021 was registered against unknown culprits with the allegation of commission of offences under Sections 457/380/34 of I.P.C. Thereafter, the police arrested the present petitioner and another person in connection with the aforesaid offences and seized Rs.80,000/- from the petitioner. The petitioner was forwarded and produced before the J.J. Board, Cuttack.

3. The learned J.J.Board, Cuttack rejected the bail application of the petitioner holding that due to parental negligent and bad associates, the CICL-petitioner has become involved in the present case and further observed that the petitioner might again come in contact with bad associates if he is released on bail and the release of the petitioner might expose him to moral and psychological danger.

Being aggrieved with the said order, the petitioner moved before the learned A.D.J.-cum-Special Court under POCSO Act, Cuttack and the learned appellate court vide judgment and order dated 11.10.2021 passed in Criminal Appeal No.14 of 2021 has come to the following findings:

“The Board is of the view that the CCL required to be kept in institutional care for some more time for his reformation and development. Thus, from the facts and circumstances of the case, this Court does not find any reason to take any other view than the one taken by the learned trial court while considering the bail application. Accordingly the appeal is dismissed being devoid of merit”.

4. Mr. S.K.Das, learned counsel for the petitioner submitted that the petitioner is in custody since 20.9.2021 and the learned courts below should have disbelieved the prosecution case taking into account that the petitioner was an employee of the informant and due to dispute regarding salary there was enmity between them, for which false implication of the petitioner could not be ruled out. He further states that the petitioner has no criminal antecedents and his long detention in custody would hamper his career and also affect him morally. Mr. Das further submitted that the father of the petitioner is ready and willing to take the petitioner in his care and to look after him properly so that he will not come in contact with any antisocial or habitual offender and also the father

of the petitioner will build his career properly giving him good education.

5. On the other hand, Mr. K.K.Nayak, learned Addl. Standing counsel opposed the prayer for bail stating that in view of the nature of offence committed by the petitioner and as stolen cash of Rs.80,000/- has been seized from the possession of the petitioner, a prima facie case is made out against him and in view of the fact that his uncle with whom he was staying is a co-accused in the case, he would be exposed to moral and psychological danger if released on bail, he needs institutional care in order to reform himself.

6. From a perusal of the materials on record, it appears that the CICL is a permanent resident of Samastipur, Bihar and was staying with his uncle in Cuttack and his uncle is a co-accused in the case. The social investigation report indicates that the father of the CICL is a trolley puller and parental neglect is one of the causes for commission of the crime.

7. After perusing the case diary and social background report, I am of the opinion that, the learned J.J.Board and the learned Appellate Court have rightly observed that the CICL will be exposed to moral and psychological danger if he is released on bail. Chances of his reformation in the observation home are better than

in his home environment. I am therefore not inclined to release the CICL on bail at this stage. But liberty is granted to him to move the learned J.J.Board for bail afresh alongwith an affidavit if his father indicating the manner in which he intends to reform and educate his son.

8. The learned J.J.Board is requested to expedite the hearing of the case.

9. The CRLREV is accordingly dismissed with the aforesaid observation.

10. In view of the restrictions due to resurgence of COVID-19 situation, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020, modified by Notice No.4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

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(Savitri Ratho)
Judge

Orissa High Court, Cuttack
Dated 24th January, 2022/Bichi