

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLA No.609 of 2021**

***Dusmanta Moharana @ Binod*** ..... ***Appellant***  
***Mr.S.K.Padhi, Advocate***

***-versus-***

***State of Odisha and another*** ..... ***Respondents***  
***Mr.P.C.Das, A.S.C..***

**CORAM:**

**JUSTICE A.K. MOHAPATRA**

**Order No.**

06.

**ORDER**  
**17.05.2022**

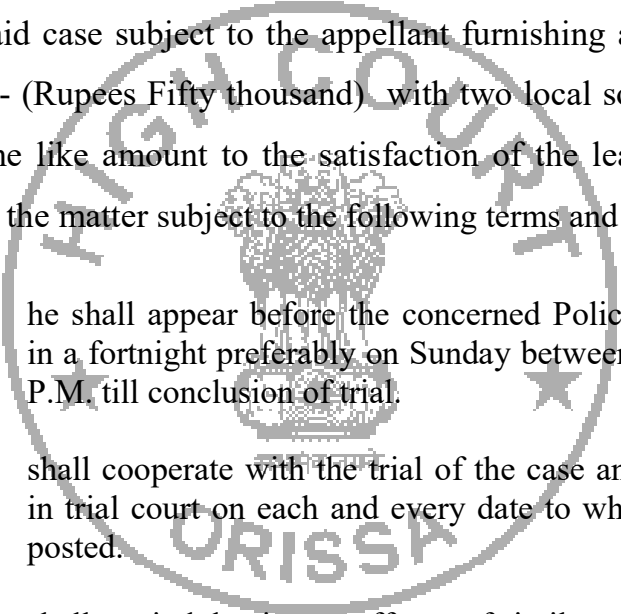
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Appellant as well as learned Additional Standing Counsel. None appears on behalf of Respondent No.2 in spite of valid service of notice.
3. This is an appeal filed under Section 14(A) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
4. The present appeal is directed against the order dated 28.09.2021 passed by the learned 2<sup>nd</sup> Additional District & Sessions Judge, Puri in rejecting the bail application of the appellant in connection with Delanga P.S.Case No.93 of 2021 corresponding to T.R.Case No.18/99 of 2021 for alleged commission of offences under Sections 294,324,302 of the Indian Penal Code read with Section 3(1)(r)(2)(v) of SC & ST (P.A.) Act.
5. The prosecution case in brief is that the family members of appellant threw egg yolk to the road side which rolled to the side of

the house of the Respondent No.2. On this one Laxmidhar Nayak of Barapada village in rowdy voice told to the family members of the appellant that they are regularly throwing dirty things near their house. On this lady family members of the appellant namely Gitamjali Moharana, sister-in-law of the appellant, his wife and mother exchanged hot words between them and Laxmidhar Nayak went towards village end. He returned to his house at about 6,30 P.M. At that time there was altercation of hot words in between complainant and accused. When the Respondent No.2 picked up a lathi to assault the present appellant in the meantime Laxmidhar Nayak his wife reached at the spot and intervened in the matter. While the appellant protested he also pushed the father of the Respondent No.2 who fell down on the hard surface on the court yard of the Respondent No.2 sustaining injuries on his back side of the head and became serious.

6. It is submitted by the learned counsel for the Appellant that due to previous dispute there was a quarrel relating to throwing of egg yolk between the deceased and the present appellant, as a result of which the present appellant pushed the deceased, who fell down on the road and sustained injury on his head. Thereafter he was taken to hospital where the deceased succumbed to the injuries. It is further submitted by the learned counsel for the appellant that the appellant has no intention to kill. It is due to momentary anger. The appellant only gave push to the deceased as a result of which he fell down and sustained injuries and ultimately succumbed to the injuries. It is also submitted by the learned counsel for the appellant that since the appellant is an inhabitant of Puri district, there is no chance of his absconding or fleeing away from receiving justice and he undertakes to appear before the learned trial court on each date of posting

7. Learned Additional Standing Counsel on the other hand opposes the prayer for bail of the appellant on the ground that the allegation made in the F.I.R. is serious in nature. Therefore, the learned counsel for the State urges rejection of his bail application at this juncture.

8. Having heard learned counsel for the parties and keeping in view the surrounding circumstances of the present case and the materials available on record and further keeping in view the period of custodial detention of the appellant, this Court is inclined to release the appellant on bail and the appellant be released on bail in the aforesaid case subject to the appellant furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions:

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- i) he shall appear before the concerned Police Station once in a fortnight preferably on Sunday between 10 A.M. to 1 P.M. till conclusion of trial.
  - ii) shall cooperate with the trial of the case and shall appear in trial court on each and every date to which the case is posted.
  - iii) shall not indulge in any offence of similar nature.
  - iv) shall not tamper with the prosecution evidence while on bail.
  - v) shall not influence or threaten any prosecution evidence while on bail.
  - vi) Violation of any of the terms and conditions shall entail cancellation of bail.

9. The impugned order dated 28.09.2021 passed by the learned 2<sup>nd</sup> Additional District & Sessions Judge, Puri in T.R. Case No.18/99

of 2021 is hereby set aside.

10. With the aforesaid observation the appeal is allowed without cost.

11. Issue urgent certified copy as per Rules.

RKS

**( A.K. Mohapatra )**  
**Judge**

