

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.447 of 2021

***Raja alias Ranjan Behera @
Rajendra***

....

Petitioner

Mr.Arun Ku. Budhia, Advocate

-versus-

State of Odisha

....

Opp.Party

Mr.K.K.Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

11.03.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Additional Standing Counsel.
3. The present revision application under Section 401 of the Code of Criminal Procedure is directed against the order dated 11.10.2021 passed by the learned ADJ-cum-Special Court under POCSO Act, Cuttack in Crl.Appeal No.09 of 2021 and order dated 07.09.2021 passed in JJC No.98 of 2021 by the learned PMJJB, Cuttack corresponding to Malgodown P.S.Case No.184 of 2014.
4. The Prosecution case as revealed from the F.I.R. in brief is that the informant Ishrat Jahan lodged a written report before the I.I.C., Malgodown Police Station alleging therein that on the very day at about 2.30 P.M. her husband (deceased) went out his house to his shop at Malgodown. At about 4 P.M. she received telephonic message that some culprits had fired to her husband, then she

immediately rushed to SCB Medical College and Hospital, Cuttack and found her husband was dead. Basing on the said information, the present case has been registered.

5. It is submitted by the learned counsel for the Petitioner that the Petitioner is a juvenile and he is involved for alleged commission of offence under Sections 302, 307/34 of the Indian Penal Code read with sections 25 & 27 of Arms Act. It is further submitted by the learned counsel for the Petitioner that so far as other co-accused persons are concerned, trial has been splitted up and after trial co-accused persons have been acquitted by the learned court below as there is no sufficient evidence to implicate those accused persons in the alleged crime. Further, on perusal of the judgment of the trial court reveals that there is no evidence as to who was the person assaulted the deceased. He further submits that the Petitioner being a juvenile, he is entitled to be protected under sections 13 & 14 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and he should be released on bail.

6. Learned counsel appearing for the State on the other hand submits that he does not dispute the fact that the Petitioner is a juvenile on the date when the occurrence took place. He further submits that social investigation report is not good so far as the present Petitioner is concerned. Therefore, he further submits that since the Petitioner is aged about 21 years now he is involved in another case and the benefit provided under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 should not be extended in his favour.

7. Considering the submissions made by the parties, this Court is of the considered view that in view of the provisions contained in Juvenile Justice (Care and Protection of Children) Act, 2015 there is

a presumption that the CCL is a juvenile considering his age at the time of occurrence. Therefore, the present Petitioner is covered under the Juvenile Justice (Care and Protection of Children) Act, 2015 and as such provisions under Section 12 and 13 of the Act is not applicable to the present facts of the case as well as to the Petitioner.

8. Considering the aforesaid submission and the fact that the Petitioner is a juvenile on the date of occurrence and that he is in custody since 03.09.2021 and further considering the fact that all the co-accused persons have been acquitted by the trial Court, this Court is inclined to release the Petitioner on bail subject to furnishing of personal bond of Rs.50,000/- (Rupees Fifty thousand) with one solvent surety for the like amount to the satisfaction of the learned Court in seisin over the matter subject to the further terms and condition to be fixed by the learned court in seisin over the matter. It is needless to mention here that the court in seisin over the matter while allowing the Petitioner on bail shall also fix suitable terms and conditions.

9. With the aforesaid observation the revision stands disposed of.

RKS

(A.K. Mohapatra)
Judge