

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.702 of 2021

Hari Jaypuria @ Hemanta Tanty *Appellant*
Mr. B.K. Dash, Advocate
-versus-
State of Odisha *Opposite Party*
Mr. Karunakar Gaya, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

Order No.

08.02.2022

03. 1. The matter is taken up through hybrid mode.
2. This is an application under Section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015.
3. Heard learned counsel for the petitioner and learned counsel for the State.
4. The petitioner-Child in Conflict with Law (CCL) has filed the present appeal challenging the order dated 17.11.2021 passed by the learned Addl. District Judge-cum-Children's Court, Sundargarh in Special G.R. Case No.120/36 of 2021, arising out of Sundargarh Sadar P.S. Case No.245 of 2021 for commission of offence under Section 376(2)(n)/506 of the IPC read with Section 6 of the POCSO Act.
5. The facts of the case allege that the present petitioner raped the informant with false promises of marriage. Further, he threatened her of dire consequences if the matter got disclosed.

6. It is submitted on behalf of the petitioner-CCL that the bail application of the petitioner has been rejected by the learned Addl. District Judge-cum-Children's Court, Sundargarh on the ground of active role of the petitioner in the commission of the alleged crime.

7. The petitioner is a young boy of 16 years, studying in class 10th. The social investigation report, as perused by the learned counsel for the State, reflects that the JCC is non-aggressive. He is disciplined and has showed no signs of violence during his stay at the observation home.

8. Furthermore, learned counsel for the petitioner placed reliance on the order of the Supreme Court vide Writ Petition (Civil) No(s) 4 of 2020. The case was taken up suo motu by the Hon'ble Apex Court in view of the COVID-19 pandemic, for the interest of all the children who fall within the ambit of Juvenile Justice (Care and Protection of Children) Act, 2015. In the said order, the Hon'ble Apex Court has directed all the JJBs and Children's Courts to consider the fate of the custody of a child in light of their best interest, health and safety concern, especially during the pandemic. The Hon'ble Apex Court succinctly held that:-

“Children alleged to be in conflict with law, residing in Observation Homes, JJB shall consider taking steps to release all children on bail, unless there are clear and valid reasons for the application of the proviso to Section 12, JJ Act, 2015.21.

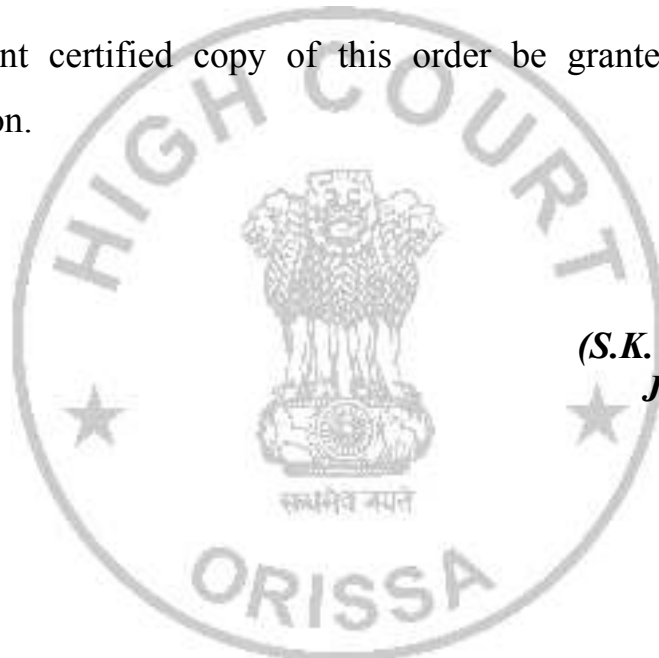
9. Considering the above submissions made and the directions of the Hon'ble Supreme Court, it is directed that the petitioner-CCL

be released on bail by the Additional District Judge-cum-Children's Court, Sundargarh in the aforesaid case with some stringent terms and conditions as the court deem fit and proper. Additionally, the parents of the CCL are directed to take his proper care and handle the matter at hand sensitively. Further, ensure his attendance with the Juvenile Justice Board for the purpose of investigation.

10. Accordingly, the CRLA is disposed of.

11. Urgent certified copy of this order be granted on proper application.

PCD



(S.K. Panigrahi)
Judge