

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.731 of 2021

Sri Srikanta Jena

Appellant
.....
Mr. S.R. Mohapatra, Advocate

-versus-

State of Odisha and another

Respondents
.....
Mr.K.K. Nayak, ASC for State-Respondent No.1

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

05.04.2022

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Appellant and learned counsel for the State-Respondent No.1. Perused the Case Diary, F.I.R. Charge-Sheet and statement of the witness on record.
3. This appeal has been filed by the Appellant challenging the order dated 30.11.2021 passed by the learned Special Judge (SC & ST), Balasore, in Special Case No.80/242 of 2021, arising out of Simulia P.S. Case No.203 of 2021, for commission of alleged offences under Sections 376(1)/506/294 of I.P.C. r/w. Section 3(1)(r, 3(1)(s) of S.C. and S.T. (Prevention of Atrocities) Act, 1989, rejecting the bail application filed by the Appellant.
4. The prosecution case, in brief, is that the informant, namely, Padmini Jena @ Padmini Gochhayat lodged an FIR on 08.09.2021 before the IIC, Simulia P.S. alleging that the informant divorced her

husband since last five years and she is residing in her parents' house. It is alleged that the Appellant tried to keep physical relationship with her and she protested the same, the Appellant threatened to take away her life. It is further alleged that she was running a beauty parlor at Andarai Market and the Appellant kept physical relationship with her and thereafter the informant was working at Sibashakti Nursing Home, Bhadrak and she was staying with her son at Bhadrak. The Appellant also kept physical relationship with her when she did not agree the Appellant threatened to take away her life and her child. In this regard the Appellant intimated before the Bhadrak Town Police Station and as the police did not take any action, she returned to her house and the Appellant lodged a written report before Simulia police station on 05.08.2021 and out of anger the Appellant abused her in obscene languages in her name of her caste and compelled to keep physical relationship with her otherwise threatened to take away the life of her son.

5. It is submitted by learned counsel for the Appellant that he is in jail custody since the date of his arrest, i.e. 27.10.2021. It is further submitted that the investigation of the case is over and police has submitted charge-sheet against the Appellant in the case. It is also submitted that the victim girl is aged about 28 years and having a child. She is running a beauty parlor and sustaining her livelihood out of it. She was also working in a nursing home. The present Appellant along with the victim girl had intimate relationship for several years and indulged in sexual relationship. It is further submitted that the accused belonging to local community and there is no chance for absconding or avoiding the trial of the case. It is

further submitted that in the event of release on bail, the Appellant shall abide by the terms and conditions as fixed by this Hon'ble Court as well as learned trial court. The further submission of the Appellant was that the medical report also does not support the case of the victim girl.

6. Learned counsel for the State opposes the bail of the Appellant on the ground that the allegation is very serious in nature and no leniency should be shown to the Appellant for grant of bail. It is also submitted that stringent conditions may be imposed on the Appellant, in the event of release on bail.

7. Considering the aforesaid facts and circumstances of the case and further considering the fact that Petitioner is in jail custody since 27.10.2021, this Court sets aside the order dated 30.11.2021 passed by the learned Special Judge (SC & ST), Balasore, in Special Case No.80/242 of 2021, arising out of Simulia P.S. Case No.203 of 2021. It is further directed that let the Appellant be released on bail subject to furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with one solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following conditions:

- (i) He shall appear before the trial court on each and every date as fixed by the court;
- (ii) He shall appear before the I.O. on every fortnight preferably on Sunday at 10.00 A.M. to 1.00 P.M.;
- (iii) He shall not leave the jurisdiction of the concerned court without special permission;
- (iv) He shall not tamper with the prosecution evidence;

(v) He shall not influence or threaten or terrorize any prosecution evidence and the informant or his family members in any manner whatsoever and cooperate in the investigation;

(vi) He shall provide the present address and mobile number to the local police station, in the event of any change in the address or mobile number, the same shall also be intimated to the local police;

(vii) Violation of any of the above conditions shall entail cancellation of the bail; and

(viii) The trial court may impose any other condition(s), as deem fit and proper.

8. With the above direction, the CRLA is accordingly allowed.

9. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge

U.K.Sahoo