

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.513 of 2021

Jayanta Bhoi

.... ***Petitioner***
Mr. P.S. Das, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

07.07.2022

Order No.

09.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Learned counsel for the petitioner submits that the petitioner has already surrendered before the learned court below and he has filed surrender certificate of the petitioner, which is on record at Flag-C.
3. The present criminal revision has been filed under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 challenging the order dated 29.11.2021 passed by the learned Additional Sessions Judge, Bhubaneswar in Criminal Appeal No.25 of 2021 thereby dismissing the Appeal confirming the order dated 11.10.2021 passed by the learned Principal Magistrate, Juvenile Justice Board, in J.G.R. No.23 of 2021 by virtue of the impugned order, learned court has refused to grant bail to the CICL-petitioner.
4. The facts of the case, in brief, is that one Ashok Kumar Behera before the I.I.C. Khordha Sadar Police Station to effect that on

19.09.2021 at 10,00 P.M., while the children of his Sahi were indulged in dancing to the music of D.J., near the Village Club on the eve of their emersion of Sahi Khudurukuni at that time one Prasanta Bhoi passed filthy languages against the Sahi Children. When the Informant father objected the same, there was hot exchange of words among the inhabitants of the Bhoi Sahi and Behera Sahi. All on a sudden, one Prasanta Bhoi, Prafulla Bhoi, Prakash Bhoi and the present petitioner being armed with wooden Plank and Katuri attacked the informant's father, for which he was succumbed to injuries at D.H.H., Hordha. On the basis of such information, the case was registered under Sections 302/34, I.P.C.

5. Heard Mr. P.S. Das, learned counsel for the petitioner, Mr. S. Pr. Das, learned counsel for the informant as well as Mr. P.C. Das, learned Additional Standing Counsel for the State.

6. Perused the case diary, statement of the witnesses and relevant materials on record.

7. Learned counsel for the petitioner submits that the petitioner is a juvenile and is in custody since 20.09.2021 and that the investigation of the case has been concluded and charge-sheet has been submitted in the meantime. It is further submitted by learned counsel for the petitioner that the CICL is an innocent poor boy of the locality and he has been falsely implicated in the present case. He further submits that the false acquisition has caused irreparable mental injury to the CICL and further his career is in jeopardy. It is also submitted by learned counsel for the petitioner that on similar footing with the CCL, other petitioners have already been released on bail by this Court vide order dated 26.04.2022 in BLAPL No.10161 of 2021 and order dated 24.02.2022 in BLAPL No.10109

of 2021.

8. It is also submitted by learned counsel for the petitioner that after the petitioner was arrested on 20.09.2021, he was produced before the court of learned Principal Magistrate Juvenile Justice, Khurda and an application was moved to release him on bail, which was rejected by order dated 11.10.2021. Thereafter, the rejection order was challenged by filing Criminal Appeal No.25 of 2021 before the learned Additional Sessions Judge, Bhubaneswar, however, the said Criminal Appeal has also been dismissed vide order dated 29.11.2021 without appreciating contentions raised on behalf of the CICL and without appreciating the materials on record.

9. It is further contended on behalf of the CICL that the learned court below while considering the bail application of the CICL has completely lost sight of the provisions of law applicable to a juvenile and further the enquiry has not been conducted properly by the learned court below. It is further submitted that the CICL has no criminal antecedents and he is a minor and innocent boy of the locality. The alleged incident and the false implication has caused a scar in the mind of the CICL and as a result of which the young boy has gone into depression. Under such circumstances, learned counsel for the CICL submits that with the present state of mind of the CICL, the future of the CICL is dark.

10. Learned counsel for the CICL further submits that the learned courts below have completely ignored the stand of the CICL that there was a long standing family dispute between the Bhoi Sahi and Behera Sahi. The case has been lodged by the informant falsely implicating the present petitioner. Learned counsel for the CICL further submits that the police while investigating into the matter

arrested the petitioner in the present case.

11. Learned counsel for the petitioner further submits that the petitioner is in custody since long and that the investigation has been concluded and charge-sheet has been filed. Further there is no possibility of the petitioner coming in contact with hardcore criminals once he is released on bail as the parents are ready and willing to give undertaking to the court to the effect that they will lookafter and keep watch on the activities of the CICL once he is released on bail and further the parents shall also ensure that the petitioner would appear before the court on each and every date of hearing in trial court and further shall abide by any terms and condition to be imposed by this Court.

12. Learned counsel for the State vehemently opposes the prayer for bail of the CICL. Relying upon the statement of the witnesses, learned counsel for the State submits that a case is well made out against the CICL under the alleged sections of the Indian Penal Code. Further learned counsel for the State expresses his apprehension to the effect that in the event the petitioner is released on bail, there is a possibility that he might come in contact with the hardcore criminal. He further submits that considering the age of the victim, the alleged crime is very heinous in nature. In such view of the matter, learned counsel for the State urges that the bail application of the CICL should be rejected and he also submits that in view of Section 12 of the J.J. Act safety of the CCL is first priority.

13. It is not disputed that the CICL was not getting proper care and affection from his family particularly his parents. Therefore, he needs counseling/supervision.

14. Having heard learned counsel for the parties and upon perusal of the materials on record and taking into consideration the facts and circumstances of the case as well as nature and gravity of the offence and further keeping in views the provision under Section 12 of the Juvenile Justice (Care and Protection) Act, 2015, the period of detention of the CICL in the Observation Home and absence of any material that while on bail the criminal is likely to come in association with any known criminal or will be exposed to moral, physical or psychological danger or his release would defeat the ends of justice, I am inclined to release the petitioner on bail.

15. Accordingly, the petitioner is directed to be released on bail on his parent or any family member executing personal bond for a sum of Rs.20,000/-(rupees twenty thousand) with two solvent sureties each of the like amount to the satisfaction of the learned court in seisin over the matter and also on filing an affidavit by such family member before the concerned Court to the effect that:-

- I. The Family Member/Parents shall be responsible for the well-being of the CICL;
- II. he shall ensure that the petitioner does not fall into bad company;
- III. he shall ensure the presence of the petitioner before the learned court belowon each date when the case would be posted for inquiry; and
- IV. The CICL shall appear before the DCPO once in every month till conclusion of the trial and the DCPO shall submit a report every month before the concerned P.M. J.J.

Board.

16. With the aforesaid observation, the impugned order dated 29.11.2021 passed by the learned Additional Sessions Judge, Bhubaneswar in the aforesaid case is set aside.

17. The CRLREV is accordingly allowed.

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

(*A.K. Mohapatra*)
Judge

Jagabandhu

