

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.739 of 2021

Micky @ Manoranjan Sahoo **Appellants**

Mr. Devashis Panda, Advocate

-versus-

State of Odisha and another **Respondents**

*Mr. Arupananda Das,
Addl. Government Advocate
(For Respondent No.1)*

CRLA No.620 of 2022

Raja Dalai **Appellant**

Mr. Devashis Panda, Advocate

-versus-

State of Odisha **Respondent**

*Mr. Arupananda Das,
Addl. Government Advocate*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
26.09.2022**

Order No.

13. Both the matters are taken up through Hybrid arrangement (video conferencing/physical mode).

Since both the appeals have arisen out of the same P.S. Case and similar question of law and facts are involved in both the cases, both are heard together and disposed of by this common order on consent of the learned counsel for the parties.

Heard Mr. Devasish Panda, learned counsel appearing for the appellants and Mr. Arupananda Das, learned Additional Government Advocate appearing for the State in both the appeals.

Mr. Devasish Panda, learned counsel appearing for the appellants in both the appeals, submits that the appellant in CRLA No.739 of 2021 is in judicial custody since 8th July 2020 and appellant in CRLA No.620 of 2022 is in judicial custody since 13th July 2021 and both the appellants have been charge sheeted under Sections 302, 120(B) read with Section 34 of the I.P.C., Sections 25 & 27 of the Arms Act and Section 3(2)(va) of the S.C. & S.T. (PoA) Act. It is further submitted that informant in this case is one Srinibas Nayak and the occurrence in question took place on 14th June 2020 and the F.I.R. was also lodged on the very day. In the first information report, the informant has not stated the name of appellant Micky @ Manoranjan Sahoo to have participated in the crime. It is further submitted that on the very day of the lodging of the F.I.R., the statement under Section 161 of

Cr.P.C. of the informant Srinibas Nayak was recorded by the Investigating Officer and in that statement also, he has not named the appellant Micky @ Manoranjan Sahoo, but named the appellant Raja Dalai, to have fired gunshot at the deceased Lala Pradhan. However, the same finds place in the statement of eye witness Pratap Nayak and in the meantime, both the eye witnesses have been examined in the trial Court as P.W.3 and P.W.7 and whereas P.W. 7 Pratap Nayak has not supported the prosecution case and has been declared hostile, P.W.3 Srinibas Nayak stated in the chief examination that the appellant Raja Dalai and one Niki arrived at the spot and fired bullets to the deceased, for which, the deceased received gunshot injuries. It is further submitted that it has been confronted to the witness by the learned Additional Public Prosecutor after being declared hostile that he has stated before police that the appellant Raja Dalai and his friend, who opened gunshots and fired 5 to 7 rounds and due to gunshot injuries, the deceased Lala Pradhan fell down on the ground. It is further contended that no T.I. Parade has been conducted to establish the identity of any of the appellants and in view of the progress of trial, the bail application of the appellants may be favourably considered.

Learned Additional Government Advocate

appearing for the State fairly submits that no T.I. parade has been conducted in this case. However, it is submitted that the name of the appellant Raja Dalai finds place in the statement recorded under Section 161 of Cr.P.C. of both the eye witnesses and in court also the eye witness Srinibas Nayak has named the appellant Raja Dalai to who have fired gunshot. He has pointed out that another statement of Srinibas Nayak was recorded on 22nd July 2020, in which, he has named the appellant Micky @ Manoranjan Sahoo.

Considering the submissions made by the learned counsel for the respective parties, the nature of accusation appearing against the appellant Micky @ Manoranjan Sahoo and the nature of evidence adduced in the trial Court and the period of detention in judicial custody, while not entering into detail analysis, I am inclined to release him on bail.

Let the appellant Micky @ Manoranjan Sahoo in CRLA No.739 of 2021 be released on bail in the aforesaid case on 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 with further conditions as the learned Court may deem just and proper with further conditions that he shall not indulge in any criminal activities and shall appear before the

learned trial Court on each date to which the case would be posted for trial.

Violation of any of the conditions shall entail cancellation of bail.

So far appellant Raja Dalai in CRLA No.620 of 2022 is concerned, in view of the available materials on record and that it is on account of his gunshot, the deceased died, I am not inclined to release him on bail.

Trial court is directed to expedite the trial.

At this stage, it is submitted by the learned counsel for the appellants in both the appeals that P.W.3 was cross-examined in part, but he is not coming forward to face further cross-examination in spite of repeated summons.

Learned counsel for the State, however, submits that the P.W.3 is not available in the locality since last one month. To that effect, he has produced a report dated 5th September 2022 of the Inspector in-charge of Khurda Sadar Police Station.

In view of such submissions made at the Bar, the learned trial Court shall intimate the Superintendent of Police, Khurda to make every endeavour to see that P.W.3 attend the Court on the next date for further cross-examination.

Both the CRLAs are accordingly disposed of.

A free copy of this order be handed over to the

learned counsel for the State and a copy of this order be communicated to the learned trial Court forthwith.

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

(S.K. Sahoo)
Judge

DA

