

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.758 of 2021

Misala Siba

....

Appellant

Mr. Ashok Das, Advocate

-versus-

State of Odisha and another

....

Respondents

Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

28.02.2022

Order No.

03.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an appeal under Section 14(4) of Schedule Caste and Scheduled Tribe Act.
3. The present appeal is directed against the order dated 21.12.2021 passed by the learned Special Judge-cum-Sessions Judge, Parlakhemundi, Gajapati in G.R. Case No,103 of 2021 arising out of Parlakhemundi P.S. Case No.199 dated 01.10.2021 for alleged commission of offence under Sections 341/294/387/323/354/506/34, I.P.C. read with Sections 3(1)(r)(s)/3(1)(w)(i)/3(w)(f)/3(2)(1)(w)(z)/3(2)(va) of the S.C. and S.T. (PoA) Act.
4. Heard learned counsel for the Appellant as well as learned Additional Standing Counsel for the State-Respondent.
5. Further despite notice having been served on Respondent No.2, which fact has been confirmed by the I.I.C. of the concerned Police

Station, none appears on behalf of the Respondent No.2.

6. The prosecution case, as revealed from the F.I.R., is that Respondent No.2-informant lodged a written F.I.R. on 01.10.2021 at the Parlakhemundi Police Station inter alia alleging that on 09.09.2021 in the afternoon she was assisting her husband in the field, at that time, the accused persons came her and demanded money, when the informant denied, the accused persons tore the wearing apparels and abused in filthy languages by calling her caste name. Accordingly, this F.I.R. has been lodged by the informant.

7. Earlier also the Appellant had approached this Court for bail in CRLA No.618 of 2021, the same was withdrawn vide order dated 22.11.2021 with liberty to move the learned court below afresh. Thereafter, the Appellant moved the learned court below and the learned court below after hearing the Appellant had rejected the bail application of the present Appellant by virtue of the impugned order.

8. Learned counsel for the Appellant submits that due to some personal enmity, the Appellant has been falsely implicated in this case and that he is in custody since 22.10.2021. In the meantime, investigation has been concluded and charge-sheet has been submitted. It is further submitted by learned counsel for Appellant that although the occurrence took place on 09.09.2021, the F.I.R. was lodged on 01.10.2021 after lapse of 22 days. It is further submitted that in course of the investigation, the police has recorded the statements of the witnesses. However, nobody has stated anything against the Appellant. It is also submitted by learned counsel for the Appellant that the learned Special Judge-cum-Sessions Judge, Parlakhemundi vide order dated 21.07.2021 allowed the bail application in respect of another co-accused whereas the bail application of the Appellant has been illegally rejected. He further submits that the F.I.R. is false one and nobody was present at

the spot of occurrence and that on the basis of the allegation made in the F.I.R. no offence is made out under the alleged under Sections.

9. Learned counsel for the State-Respondent, on the other hand, submits that the allegations made against the Appellant are serious in nature and that the Petitioner had assaulted the informant and her husband. He further submits that considering the gravity and seriousness of the allegation, the prayer for bail at the behest of the Appellant may be rejected.

10. Having heard learned counsel for the Appellant as well as learned Additional Standing Counsel for the State-Respondent and considering the nature of accusation, seriousness and the gravity of offence as well as custodial detention of the Appellant, I am inclined to release the Appellant on bail. Accordingly, the impugned order dated 21.12.2021 passed in CRLA 618 of 2021 is hereby set aside.

11. Let the Appellant be released on bail in the aforesaid case subject to furnishing a bail bond of Rs.30,000/-(rupees thirty thousand) with two local sureties each for the like amount to the satisfaction of the learned court in seisin over the matter with further conditions as may deem just and proper by the learned court in seisin over the matter in the facts and circumstances of the present case.

12. With the aforesaid observation, the Appeal is allowed without any cost.

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

(A.K. Mohapatra)
Judge