

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.771 of 2021

Sunil Nahak @ Sunil Kumar Nahak ***Appellant***
Mr. Achyutananda Pattanaik, Advocate

-versus-

State of Odisha and another ***Respondents***
Mr. Manoj Ku. Mohanty, ASC for State-Resp. No.1

CORAM:
JUSTICE A.K. MOHAPATRA

ORDER
19.04.2022

Order No.

02. 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. and statement of the witness.
3. This appeal has been filed by the Appellant challenging the order dated 18.08.2021 passed by the learned Additional Sessions Judge, Chatrapur, Ganjam, in G.R. Case No.32 of 2019, arising out of Kabisuryanagar P.S. Case No.304 of 2018, for commission of alleged offences under Sections 302/120-B/34 of IPC r/w. Sections 3(2)(v) of SC and ST (POA) Act, rejecting the bail application filed by the Appellant.
4. The case of the prosecution, in brief, is that the deceased himself being the Informant narrated that on 24.12.2018, at the evening at 6.30 P.M., two persons, namely (1) Kuna Paikaray, S/o.

Late Gopinath Paikaray, (2) Pitambar Sethi, S/o. Late Budhia Sethi, both are of vill-Athagarh Patina, PS-Kabisuryanagar, Dist.-Ganjam came to his liquor shop, abused in filthy languages, kicked him and assaulted by means of Kati & iron Pipe causing profuse bleeding injury on the head of the deceased. The Kabir Sethi immediately admitted at CHC, Kabisuryanagar. The aforesaid allegation has been registered as Kabisurnagar P.S. Case No.304 of 2018.

5. It is submitted by learned counsel for the Appellant that he is in jail custody since the date of his arrest, i.e. 03.02.2020. It is further submitted that police after investigation has filed charge-sheet against the Appellant. It is submitted that the other co-accused person, namely, Prasanta @ Mangu Gouda has been granted bail by this Hon'ble Court vide its order dated 21.01.2021 passed in CRLA No.349 of 2020. He further submits that the contents of the FIR in this case was lodged by the deceased informant after lodging the FIR he died few days thereafter. Initially, Appellant's name was not in the FIR subsequently on the statement of the sister of the deceased, the Petitioner has been implicated in the case. It is further submitted that the Appellant is a permanent resident of the area, so the chance of fleeing away from court of justice does not arise at all. Moreover, learned counsel for the Appellant undertakes to abide by the terms and conditions as fixed by this Hon'ble Court as well as learned court below in the event of release on bail.

6. Learned counsel for the State on the other hand submits that Appellant has criminal antecedents. Therefore, no leniency should be shown to the Appellant for grant of bail. It asserts that the case of the Appellant may be rejected on the above score alone.

7. Considering the aforesaid facts and circumstances of the case and further considering the period of detention of the Appellant, this Court sets aside the order dated 18.08.2021 passed by the learned Additional Sessions Judge, Chatrapur, Ganjam, in G.R. Case No.32 of 2019, arising out of Kabisuryanagar P.S. Case No.304 of 2018. 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., till the end of trial ;
- (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 her 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

