
(2022) 02 OHC CK 0214
In the Orissa High Court
Case No : Criminal Appeal No. 601 Of 2021

Goutam Pradhan

APPELLANT

Vs

State Of Orissa And Another

RESPONDENT

Date of Decision : 25-02-2022

Acts Referred:

Citation : (2022) 02 OHC CK 0214

Hon'ble Judges : A.K.Mohapatra, J

Bench : Single Bench

Advocate : S.R.Mohapatra, K.K. Nayak, S.R.Mulia, R.C. Moharana

Final Decision : Allowed

Judgement

A.K.Mohapatra, J

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Appellant, learned counsel for the State-Respondent No.1 and learned counsel for the Informant-Respondent No.2.
3. Pursuant to issuance of notice by this Court, the Informant has appeared through Mr.Ramesh Chandra Moharana, leaned counsel. Perused the case record as well as the statement of witnesses.
4. This appeal has been filed by the Appellant challenging the order dated 27.10.2021 passed by the leaned Addl. Sessions Judge, Dhenkanal in 1.C.C. No.03 of 2021 for commission of offences under Sections 376/511 of I.P.C. read with Section 6 of POCSO Act and Sec.3 of S.C./S.T. (P&A) Act, rejecting the bail application filed by the Appellant.
5. The prosecution case in brief is that the victim is a minor girl whose Date of Birth is 11.05.2003. It is stated that on the eventful night on 17.04.2018 at about 7.00 P.M., while the victim was returning to her uncle's house after attaining the call of nature with a torch light, on the way the Appellant came

towards her and forcibly took her to the back side of her uncle's house where they laid down her forcibly on the ground and made her naked, torn her wearing apparels and the co-accused, namely, Basudev Pradhan attempted to commit rape her while the Appellant was holding her both the legs to fascinate the crime, with much struggle, she could be able to save herself from the clutches of the accused persons and raised hullah. Hearing such hulla, her uncle, aunt and others came to the spot, seeing them coming, the accused persons fled away from the spot.

6. Initially FIR was lodged on 17.07.2018, which was registered as Motanga P.S. Case No.126 of 2018. After investigation, the police submitted final report stating therein that the entire case is false and fabricated one. Thereafter, the complainant filed 1CC Case No.03 of 2021 before the learned Special Judge, Dhenakanl as protest petition. The statement of the victim girl was recorded u/s.164 Cr.P/C. where she had supported the allegation made in the FIR. After conducting inquiry u/s.202 of Cr.P.C., learned Addl. Sessions Judge-cum-Judge Special Court (POCSO), Dhenkanal was pleased to take cognizance of offences u/s.341/354-B/376/511/34 of IPC r/w. Section 3(1)(w)/3(2)(v)(va) of the S.C. and S.T. (POA) Act and U/s.8 of the POCSO Act.

7. It is submitted by learned counsel for the Appellant that the entire allegations are false. It is alleged that one Ratikanta Rout had installed a crusher unit at village Ranjagola and was polluting the atmosphere with the leadership of accused Basudev and Goutam, They managed to stop the crusher unit in the village, so these false allegations have been drawn against the Appellant and another co-accused person. Learned counsel for the Appellant submits that the victim lodged FIR three months after the occurrence. Keeping in view the aforesaid fact, he prays for grant of bail to the Appellant.

8. Learned counsel for the Informant draws attention of this Court to the 164 statement of the victim girl wherein she has reiterated the allegation made in the FIR. Accordingly, learned counsel for the Informant submits that the charges leveled against the Appellant, he should not be enlarged on bail.

9. Learned counsel for the State referring to the Police Report submits that police after investigation of the case has submitted police report therefore, he suggested that the accused persons are liable to be prosecuted u/s.211 IPC.

10. Having heard learned counsel for the parties, considering the nature and gravity of offences alleged, the period of detention of the Appellant, this Court at this stage does not want to go into the details of the matter, as the same will be decided on merit. However, considering the factual background and the fact that FIR was lodged three months after the occurrence and considering the role of the Appellant in the alleged crime, this Court is inclined to release the Appellant on bail on furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with one two local sureties for the like amount to the satisfaction of the learned court in seisin of 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 not tamper with the prosecution evidence;
- (iii) He shall not influence or threaten any prosecution evidence and cooperate with the investigation;
- (iv) He shall not make any attempt to reach out or contact the victim girl in any way;
- (v) Violation of any of the above conditions shall entail cancellation of the bail.

11. In view of the above, the order dated 27.10.2021 passed by the learned Addl. Sessions Judge, Dhenkanal in 1.C.C. No.03 of 2021 is hereby set aside. It is further directed that the bail of the Appellant is subject to compliance of above conditions only.

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

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

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