

(2023) 04 OHC CK 0007
In the Orissa High Court
Case No : Criminal Appeal No. 589 Of 2022

Hara Prasad Swain

APPELLANT

Vs

State Of Orissa And Another

RESPONDENT

Date of Decision : 03-04-2023

Acts Referred:

Indian Penal Code, 1860 — Section 294, 506
Scheduled Castes And The Scheduled Tribes (Prevention Of Atrocities) Act, 1989 —
Section 3(1)(r)(s), 3(2)(va), 14A
Information Technology Act, 2000 — Section 66E, 67

Citation : (2023) 04 OHC CK 0007

Hon'ble Judges : B. P. Routray, J

Bench : Single Bench

Advocate : A.R. Panda, P. Sahu

Judgement

B. P. Routray, J

1. Heard Mr. A.R. Panda, learned counsel for the Appellant, Mr. K. Das, learned A.S.C. for the State-Respondent No.1 and Mr. P. Sahu, learned counsel for the Respondent No.2-informant.

2. This is an appeal under Sec.14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and the offences alleged are under Secs.294/506, I.P.C. and Sec.3(1)(r)(s)/ 3(2)(va) of the S.C. & S.T. (POA) Act and Sec.66-E/67 of the I.T. Act.

3. It is submitted that the Appellant is inside custody since 13.5.2020 and despite repeated directions of this Court dated 7.6.2021 passed in CRLA No.121 of 2021 and dated 3.11.2022 passed in the present appeal, the trial has not been completed and only seven witnesses have been examined till date. It is further submitted that during recent interim release of the Appellant, no such untoward incident has been reported against him and after availing his interim release, the Appellant has surrendered in time.

4. It is seen that initially this Court by order dated 7.6.2021 passed in CRLA No.121 of 2021 directed to complete the trial by end of December, 2021. But the same was not completed. However, considering the impact of COVID-19 pandemic, this Court again by order dated 3.11.2022 has directed for conclusion of trial by end of March, 2023. But the same is not completed and only seven witnesses (including victim) have been examined till date, as submitted by Mr. Panda.

5. It is seen that there are twelve charge-sheeted witnesses only. It is unfortunate on the part of the learned Sessions Judge-cum-Special Judge, Phulbani not to act diligently on the directions of this Court particularly when only 12 (twelve) charge-sheeted witnesses are there. I fail to understand the reasons for delay in completing the trial and the learned Sessions Judge appears defiant to the directions of this Court.

6. Upon hearing learned A.S.C. for the State-Respondent No.1 as well as learned counsel for the informant and perusal of copy of the depositions and considering the period of detention of the Appellant inside custody and the fact that nothing adverse has been reported against the Appellant during his release on interim bail, it is directed to release the Appellant on bail in connection with Phulbani Town P.S. Case No.18/2020 corresponding to T.R. Case No.13/2021 on such terms and conditions to be fixed by the learned Sessions Judge-cum-Special Judge, Phulbani or the court in seisin over the matter as he deems just and proper including the condition that the Appellant shall attend the trial court on each date fixed and shall not be involved in any other offences while on bail.

7. The learned Sessions Judge-cum-Special Judge, Phulbani is directed to submit a report stating the reasons of delay explaining steps taken on each date of posting of the trial. The report of the learned Sessions Judge should reach before this Court on or before 25th April, 2023. Registry is directed to get the same within time.

8. A copy of this order be communicated to the learned Sessions Judge-cum-Special Judge, Phulbani immediately.

9. List this matter on 26th April, 2023.

10. An urgent certified copy of this order be issued as per rules.

.....