
(2021) 08 OHC CK 0037
In the Orissa High Court
Case No : Criminal Appeal No. 390 Of 2012

Harun Tirky And Others

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 10-08-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 389
Indian Penal Code, 1860 — Section 34, 302??Children) Act, 2000

Citation : (2021) 08 OHC CK 0037

Hon'ble Judges : S. K. Mishra, J;B. P. Routray, J

Bench : Division Bench

Advocate : N.K.Panda, L. Samantray

Final Decision : Disposed Of

Judgement

1.Â Â This matter is taken up by hybrid mode.

2. Heard Mr.N.K.Panda, learned Advocate for Petitioner/Appellant No.3, Miss. Orgain Tirky and Mr.L.Samantray, learned Additional Government

Advocate for the State.

3. This application has been filed under Section 389 of the Cr.P.C. by the Petitioner/Appellant No.3 for grant of bail upon appeal and suspension of sentence.

4. In this case, the Petitioner/Appellant No.3 has been convicted and sentenced to undergo imprisonment for life under Section 302/34 of the Indian

Penal Code,1860 (hereinafter referred to as â??the Penal Codeâ? for brevity) and to pay a fine of Rs.3,000/-, in default to undergo imprisonment for

two months vide the judgment of conviction and order of sentence dated 5.5.2012 passed by the learned Additional Sessions Judge, Fast Track Court,

Rourkela in Sessions Trial Case No.152/83 of 2011.

5. Mr.Panda, learned counsel for Petitioner/Appellant No.3 submits that the Petitioner/Appellant No.3 is in custody since 24. 3.2011 . In the meantime, more than 10 years have elapsed. He further submits that though on the last date i.e. on 22.11.2019 the application for bail upon appeal was rejected, paper book has not yet been prepared. So, there is no reasonable expectation of the appeal being taken up in near future. Moreover, the Petitioner/Appellant No.3 is a lady and a permanent resident of village-Jorda, P.S.-Gurundia in the district of Sundargarh. Hence, there is no reasonable chance of her absconding from the process of justice. Since the evidence has already been recorded, there is no chance of tampering with the prosecution evidence also.

6. Hence, we are inclined to suspend the sentence and release the Petitioner/Appellant No.3 on bail upon appeal.

7. Accordingly, the prayer for bail upon appeal of the Petitioner/Appellant No.3 is allowed. The sentence of imprisonment for life is suspended.

8. Let the Petitioner/Appellant No.3 Orgain Tirky be released on bail on such terms and conditions as deemed just and proper by the court in seisin over the matter in the aforesaid case.

9. The I.A. is disposed of accordingly.

10. Urgent certified copy of this order be issued as per Rules.

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