

(2024) 02 OHC CK 0186
In the Orissa High Court
Case No : Criminal Appeal No.31 Of 2024

Siba @ Bhagya Ranjan Biswal

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 20-02-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 161, 164

Indian Penal Code, 1860 — Section 376(1), 450, 506

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 — Section 3(2)(v), 3(2)(va)

Citation : (2024) 02 OHC CK 0186

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : B.S. Dasparida, S. Pattnaik

Final Decision : Disposed Of

Judgement

Arindam Sinha, J

1. Mr. Dasparida, learned advocate appears on behalf of appellant and submits, his client is aggrieved by order dated 5th January, 2024 made by the Court of Sessions Judge rejecting the bail application. He places the reasons given in impugned order, reproduced below.

"Perused the LCR, charge sheet and other connected police papers. It reveals that the accused-petitioner has been charge sheeted for the commission of offence U/ss. 450/376(1)/506 of IPC and U/s.3(2)(v)(va) of the SC & ST (POA) Act. A prima facie case is well made out against the accused-petitioner. It is alleged against the accused-petitioner is that in wee hour of night i.e. 2.30 A.M. forcibly entered into the house of the victim through window and tied the victim's leg and hand and committed rape the helpless scheduled caste lady against her will and consent.

The manner in which the petitioner has committed the alleged rape is very

heinous and serious in nature and not only against a particular victim but against the society at large.

Considering the aforesaid facts and circumstance and the character of evidence and the manner in which the sexual act played by the accused with the victim, this Court is not inclined to enlarge the petitioner on bail and accordingly prayer for bail stands rejected.”

He submits, the parents of the girl were in the next room/verandah. There was no injury report. The complaint was lodged on 9th July, 2022 upon alleged occurrence on 24th June, 2022. Charge-sheet has been filed and it is a fit case where his client be enlarged on bail pending trial of the case.

2. Mrs. Pattnaik, learned advocate, Additional Government Advocate appears on behalf of State and submits, there be no interference in appeal with impugned order. Statements made under sections 161 and 164 in Criminal Procedure Code, 1973 are there in case diary. Law stands declared that delay in lodging complaint cannot be taken as fatal to the case. The trial Court has expressed apprehension on enlarging petitioner/appellant and as such he should remain in custody.

3. On query from Court Mrs. Pattnaik hands up the medical report. Perusal thereof reveals report to be that there is sign of sexual intercourse. On further query from Court Mrs. Pattnaik submits, the victim has said that her parents were nearby and there is no injury report.

4. Whether delay has any bearing on the case is to be considered at trial. At present the issue is whether appellant must continue to remain in custody in the facts and circumstances as above.

5. Appellant be enlarged on bail upon furnishing bond security of ₹ 25,000/- (rupees twenty-five thousand) with two sureties of like amount, to satisfaction of the trial Court. Further condition is that appellant will present himself on every hearing date at trial.

6. The appeal is thus disposed of.

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