
(2023) 10 OHC CK 0130
In the Orissa High Court
Case No : Criminal Appeal No. 961 Of 2023

Suresh Amat

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 18-10-2023

Acts Referred:

Indian Penal Code, 1860 — Section 306, 376

Citation : (2023) 10 OHC CK 0130

Hon'ble Judges : S.K. Sahoo, J

Bench : Single Bench

Advocate : Trilochan Nanda, Rajesh Tripathy

Final Decision : Disposed Of

Judgement

S.K. Sahoo, J

I.A. No. 2072 of 2023

This matter is taken up through Hybrid Arrangement (Video Conferencing/ Physical Mode).

This is an application for bail.

The appellant-petitioner Suresh Amat has been convicted under sections 376/306 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.10,000/-(rupees ten thousand), in default, to undergo further rigorous imprisonment for a further period of six months for the offence under section 376 of the Indian Penal Code and to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.5,000/- (rupees five thousand), in default, to undergo further rigorous imprisonment for a further period of four months for the offence under section 306 of the Indian Penal Code and both the sentences were directed to run concurrently by the learned 1st Addl. Sessions Judge, Balangir vide judgment and order dated 22.08.2023 passed in Sessions Case No. 27/02/01 of

2015-16-23.

Learned counsel for the petitioner submitted that that the petitioner was on bail during trial and he has never misutilized the liberty. Learned counsel further submitted that though the petitioner has been found guilty under section 376 of the Indian Penal Code by the learned trial Court, but it is the prosecution case that on 10.01.2014 rape was committed on the deceased in the agricultural land while she had been for plucking beans and she returned home and disclosed before her family members and thereafter consumed poison, which resulted in her death. He however submitted that on 11.01.2014 the father of the victim lodged the F.I.R. and in the F.I.R., there is nothing to show that the petitioner committed rape on the victim, rather it is mentioned therein that the petitioner abused the victim in filthy language and also tried to outrage her modesty by tearing her shirt and assaulted her. Learned counsel further submitted that the rape aspect has been subsequently developed and the Investigating Officer has also stated that none of the family members of the deceased examined by him during the U.D. case enquiry have stated about commission of rape on the victim. It is further submitted that the petitioner has got a very good chances of success in the appeal and there is no chance of early hearing of the appeal in the near future and balance of convenience is in his favour and therefore, the bail application may be favourably considered.

Learned counsel for the State, on the other hand, opposed the prayer for bail.

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced during trial, the fact that the petitioner was on bail during trial and there is no material on record to indicate that he has misutilized the liberty and absence of any chance of early hearing of the appeal in the near future, I am inclined to release the petitioner on bail.

Let the appellant-petitioner be released on bail pending disposal of the appeal on furnishing bail bond of Rs.50,000/- (rupees fifty thousand) with two solvent sureties each for the like amount to the satisfaction of the learned trial Court with such terms and conditions as the learned Court may deem just and proper. Violation of any of the conditions shall entail cancellation of bail.

The I.A. is disposed of.

I.A. No. 2073 of 2023

This is an application for stay of realization of fine. Heard.

There shall be stay of realization of fine amount imposed on the appellant-petitioner by the learned 1st Addl. Sessions Judge, Balangir vide judgment and order dated 22.08.2023 passed in Sessions Case No. 27/02/01 of 2015-16 pending disposal of the criminal appeal.

The I.A. is disposed of.

Issue certified copy as per rules.

.....