

A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA NO.53 of 2022

(In the matter of an appeal under Section 14-A(2) of the S.C. and S.T.(P.A) Act, 1989 (Amendment Act, 2015)

Satyananda Sahoo **Appellant**

-versus-

State of Odisha and Anr. **Respondents**

Advocates appeared in the case through Hybrid Mode:
For Appellant :

*Mr. Ajaya Kumar Moharana,
Adv.*

-versus-

For Respondents :

*Mr. G.R. Mohapatra, ASC
(For Res. No.1)*

CORAM:

MR. JUSTICE S.K. PANIGRAHI

DATE OF HEARING:-23.03.2022

DATE OF JUDGMENT:-31.05.2022

S.K. Panigrahi, J.

1. The present Criminal Appeal has been preferred against the order dated 20.01.2022 passed by the learned Presiding Officer, Special Court under the S.C. & S.T. (PoA) Act, Cuttack rejecting the appellant's prayer for bail in C.T. Case No.176 of 2019 arising out of Mahanga P.S. Case No.264 of 2019 registered under

Sections 292/ 506/ 509/ 468/ 469 of the I.P.C. read with Sections 66-C/66-E/ 67/ 67-A of the I.T. Act and Section 3(2)(va) of the S.C. and S.T. (PoA) Act.

2. Prosecution case in brief is that:

On 09.12.2019 at about 4.00 P.M. the I.I.C., Mahanga Police Station, Mahanga received the letter dated 19.11.2019 from the Superintendent of Police, CID, Crime Branch, Odisha, Cuttack through Dak enclosing the complaint of one Bharati Mallik, daughter of Amulya Mallik of village Raghunathanagar, P.S.- Mahanga, District- Cuttack wherein she alleged that before one year one Satyananda Sahoo, son of Birabara Sahoo of village Bhanraj, P.S.- Mahanga, District- Cuttack had opened four numbers of Facebook accounts in her name. In the said Facebook accounts he had uploaded her obscene photographs and also that of her sisters. He called her from various telephone numbers and used to send messages. He threatened her that if she did not receive his phone call, he would make viral her photographs and kill her. He continuously abused her in obscene languages by naming her caste like 'PANA'. He also threatened her to set fire in her house.

3. Mr. A.K. Moharana, learned counsel for the Appellant submitted that the appellant is no way connected to the present case. He has been falsely

implicated in this case. He further submitted that the appellant and the informant were in love for quite a substantial period. As the appellant did not agree to marry the informant, there was a hot argument between the appellant and the family members of the informant. Hence, the informant has filed the said false complaint only to put the appellant behind the bar. The family members also snatched away the mobile phones of the appellant and knowingly and cunningly made viral of the nude photographs of the informant and her sister through the Facebook accounts. It is also submitted by the learned counsel for the appellant that the appellant being called by the informant had been to her house on 15.10.2019. A marriage proposal with the informant was given by the family members of the informant to him. But, as the elder brother of the appellant had not got married, the appellant denied said the proposal and asked the family members of the informant to wait for some time i.e. till the marriage of his elder brother. But, the informant and her family members with an ulterior motive illegally kept the appellant under lock and key and lodged the false report.

4. Learned counsel for the appellant further submitted that the appellant had earlier approached this Court in CRLA No.579 of 2021 seeking release on bail. As it came to the knowledge of the learned Advocate

concerned that charge-sheet in this case was supposed to be filed, he filed a memo before this Court for withdrawal of the said CRLA and, accordingly, the CRLA No.579 of 2021 was allowed to be withdrawn vide order dated 19.01.2022.

5. On the same day, the appellant filed a petition before the learned Presiding Officer, Special Court under the SC and ST (PoA) Act, Cuttack under Section 167(2) of the Cr.P.C. seeking for release on default bail in absence of filing of charge-sheet within a period of 120 days from the date of his detention in custody. Learned Presiding Officer, Special Court under the SC and ST (PoA) Act, Cuttack finding no merit in the said petition has dismissed the same vide order dated 20.01.2022.

6. Learned counsel for the appellant contended that the court below has failed to apprise the fact that the petition filed by the appellant before it was not a petition for release on regular bail. It was a petition for release on default bail wherein right to release on bail was accrued on the appellant, as no charge-sheet had been filed. He further contended that in the meantime investigation has already been completed and charge-sheet has also been filed. Hence, there is no chance of tampering with the prosecution witnesses, if the appellant be enlarged on bail.

7. Mr. G.R. Mohapatra, learned Additional Standing Counsel for the State vehemently opposed the prayer for bail of the appellant on the ground that there is clinching evidence against the appellant. It is also stated that considering the nature and gravity of the offence and facts of the case, the appellant has committed the aforesaid offences. Hence, this Court should not incline to release him on bail.

8. Heard learned counsel for the parties. Perused the records.

9. It appears from the order dated 20.01.2022 passed by the learned Presiding Officer, Special Court under the S.C. & S.T. (PoA) Act, Cuttack that the statutory period of 120 days expired on 03.01.2022 on which date the appellant had filed the petition under Section 167(2) of the Cr.P.C. But on the said date, the appellant failed to satisfy the court below by filing the order of this Court that his appeal had been withdrawn. Due to his inability of filing of the order of this Court, the court below held that such petition filed by the appellant did not protect the indefeasible right accrued on the UTP-appellant. In this case, charge-sheet has already been filed. Filing of charge-sheet does not create a change in circumstances to favourably consider the successive bail petition which was already rejected by the court below.

10. Therefore, this Court is not inclined to interfere with the order dated 20.01.2022 as the learned Presiding Officer, Special Court under the S.C. & S.T. (PoA) Act, Cuttack has rightly rejected the petition filed by the appellant under Section 167(2) of the Cr.P.C. seeking for his default bail.

11. So far as the prayer of the appellant for release on bail is concerned, taking into account the nature and gravity of the accusation, character of evidence appearing against the appellant, the stringent punishment provided and that there are no reasonable grounds for believing that the appellant is not guilty of the offences alleged or not likely to commit any such offences, which is not possible to record in this case, the prayer for bail is devoid of merit.

12. Accordingly, the CRLA is dismissed.

(S.K. Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 31st of May, 2022/B. Jhankar*