



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.248 of 2025

Aditya Narayan Sahu

.....

Appellant

Mr.D.R. Mohapatra, Advocate

-versus-

***State of Odisha and
others***

.....

Respondents

Mr.Aurobinda Mohanty, ASC

CORAM:

THE HON'BLE MR. JUSTICE S.K. SAHOO

THE HON'BLE MR. JUSTICE SIBO SANKAR MISHRA

ORDER

08.05.2025

Order No.

02.

This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

This CRLA has been filed by the appellant Aditya Narayan Sahu under section 419 of B.N.S.S., 2023 challenging the judgment and order dated 24.12.2024 passed by the learned 1st Addl. Sessions Judge, Berhampur in S.T. Case No. 32 of 2010 in acquitting the respondent nos.2, 3 and 4, namely, Tuna Patra @ Jangu Tuna, Giri @ Girish Chandra Sahoo and Mandu @ Santosh Kumar Sahoo respectively of the charge under section 302/34 of the Indian Penal Code.

Mr. D.R. Mohapatra, learned counsel for the appellant contended that the charge sheet as per Annexure-2 would indicate that there are twelve witnesses and in the learned trial Court, ten witnesses have been examined and two witnesses, who have been declined by the prosecution, are Anil Nayak and Santosh Sabat and they are the eye witnesses to the occurrence. Learned counsel placed the order-sheet dated 27.11.2024, which indicates that SR



on the witness Santosh Sabat was back on personal service, but he did not attend the Court for which bailable warrant of arrest was issued against the said witness through I.I.C., Gosaninuagaon police station and so far as witness Anil Nayak is concerned, SR was back after affixture service. The next order dated 04.12.2024 indicates that bailable warrant of arrest against the witness Santosh Sabat was not executed and SR was back so far as witness Anil Nayak is concerned with personal service and since he did not turn up, bailable warrant of arrest was also issued against him through I.I.C., Gosaninuagaon police station. However, on the very next day i.e. on 10.12.2024, when bailable warrants issued against the aforesaid two witnesses, i.e., Anil Nayak and Santosh Sabat were yet to be executed, learned Addl. Public Prosecutor filed a memo to decline the witnesses.

Learned counsel for the petitioner further submitted that the conduct of the learned Addl. Public Prosecutor in declining the eye witnesses to the occurrence has caused serious prejudice to the informant, the appellant herein, which has led in passing the impugned order of acquittal.

Since the 161 Cr.P.C. statements of the aforesaid two witnesses have not been annexed to the CRLA, let the learned counsel for the appellant file the same with a memo by the next date.

List this matter on 13.05.2025.

**(S.K. Sahoo)
Judge**

**(S. S. Mishra)
Judge**