



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.607 of 2026
CNR No. ODHCO10252952026

(In the matter of application U/S.14-(A)(2) of SC & ST
Prevention of Atrocities Act, 1989.)

Bhabani Shankar Nath @ Kalia Appellant

-versus-

State of Odisha & Another Respondents

For Appellant : Mr. A.R. Panda, Advocate

For Respondents : Mr. T.K. Acharya, Addl. PP
Mr. M. Mohanty, Advocate
(informant)

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:18.08.2026(ORAL)

G. Satapathy, J.

1. This Criminal Appeal in nature of Section 14-A of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989 together with amendment Act, 2016 (in short, "the Act") by the appellant is directed against the impugned order dated 26.03.2026 passed in Special Case No.16 of 2022 by which the learned Presiding Officer, Spl. Court (SC & ST), Balasore has refused to



grant bail to the appellant in connection with Balasore Sadar PS Case No.354 of 2021 for commission of offence punishable U/Ss. 302/216/201/120(B)/34 of the IPC r/w. Sections 25/27 of the Arms Act and Section 3(2)(v) of SC & ST (PoA) Act.

2. The short allegation appearing against the appellant-petitioner is for committing murder of the deceased by using fire arms and deadly weapons after entering into conspiracy with co-accused persons and causing disappearance of evidence by taking advantage of the caste of the deceased.

3. Heard Mr. Amulya Ratna Panda, learned counsel for the appellant; Mr. T.K. Acharya, learned Addl. PP and Mr. Maitrijit Mohanty, learned counsel for the informant in the matter and perused the record. Mr. Acharya, learned Addl. PP strongly opposes the prayer for bail of the appellant by contending *inter alia* that since the trial has not yet commenced, there is every chance the appellant may tamper with the prosecution evidence.

4. After having considered the rival submission upon perusal of record, there appears some allegation



against the appellant for murder of the deceased, but it is stated at the Bar that trial has not yet commenced in view of the order passed in CLRMC No.1584 of 2022, but the relevant order passed therein does not stay the trial in this case which is clarified from the following observation made therein: -

"xxx xxx xxx Since the framing of charge is fixed to 15th February, 2023, the petitioners are granted liberty to seek for an adjournment and in the event, any such request is so received from them, learned court below shall defer the hearing of the case to any date later to 24th February, 2023"

It is found from the record of the CRLMC that after 09.02.2023, the matter has not been placed before the Court and thereby, this Court is very clear that the trial has not been stayed by this Court in exercise of power U/S.482 of Cr.PC/528 of BNSS.

5. Be that as it may, a number of co-accused has already been granted bail, but it is strongly opposed by Mr. Maitrijit Mohanty that the appellant being prima facie involved in this case, his bail application should be rejected, however, there are basically four eye witnesses to the occurrence which both the parties have referred



their names as Bijay Kumar Jena, Pradip Kumar Bhoi, Jayanta Kumar Das and Dibya Darshan Sethi, but none of these witnesses have specifically alleged against the appellant for assaulting the deceased, rather one of them alleged against the appellant in a omnibus manner and another didn't even implicate him.

6. There are other eye witnesses to the occurrence, besides these four witnesses whose statements were placed before this Court, however, the same can be considered at the time of trial, but one cannot deny about the long custody of the appellant since the custody certificate produced for the appellant reveals that the appellant has already been in custody for four years seven months and twenty-eight days without charge having been framed till today. Right to speedy trial is undoubtedly the fundamental right of an accused, but keeping an accused in confinement without assuring him the fairness in trial is definitely an infringement to his fundamental right. Besides, co-accused Papu @ Jayanta Singh against whom there is serious allegation of assaulting the deceased has already been granted bail by



a co-ordinate Bench of this Court in CRLA No.1228 of 2023. In the aforesaid facts and circumstances and taking into account the nature and gravity of the offence as alleged against the appellant vis-à-vis the accusation sought to be brought against him and regard being had to the role as alleged against the appellant keeping in view the other circumstances on record in entirety including the inherent right of the accused to be presumed innocent until proven guilty at the trial and the pre-trial detention of the appellant in custody and trial having not yet commence and there being no materials collected to suggest that the appellant would abscond or would pose threat to the witnesses, if released on bail this Court without expressing any view on merit admits the appellant to bail, but subject to certain conditions.

7. Hence, the Criminal Appeal stands allowed and the impugned order is hereby set aside. Consequently, the appellant is directed to be released on bail on such terms and conditions as deems fit and proper by the learned Court in seisin over the matter with certain conditions:-



(i) The appellant shall not contact the family members of the deceased;

(ii) The appellant shall not threaten/ influence/ induce/ coerce any of the witnesses acquainted with the facts of the case so as to dissuade them disclosing such facts before the Court & the appellant shall co-operate the trial;

(iii) The appellant shall co-operate the trial; &

(iv) The appellant shall report attendance before the jurisdictional Police Station once in a fortnight preferably on a Sunday in each month in between 10 A.M. to 12 Noon for three (03) months from the actual date of his release from the custody.

8. Accordingly, the CRLA stands disposed of. A copy of this order be immediately communicated to the concerned Court.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 18th day of August, 2026/Jayakrushna*