

38. 31.07.2019

I.A. No.445 of 2019

Heard Mr. S. Pradhan, learned counsel for the appellant no.4-Sk. Rahul @ Rahul @ Sk. Saheed and Mr. B.P. Pradhan, learned Additional Government Advocate.

This is an application filed under Section 389 of the Cr.P.C. by the petitioner/ appellant no.4- Sk. Rahul @ Rahul @ Sk. Saheed for bail upon appeal.

In this case, the appellant no.4 and four others have been convicted and sentenced each to undergo imprisonment for life and to pay a fine of Rs.10,000/- each, in default of payment of fine amount, to undergo further period of R.I. for one year each under Section 302/34 of the I.P.C. vide the judgment of conviction and order of sentence dated 20.05.2015 passed by the learned 2nd Additional Sessions Judge, Cuttack in S.T. Case No.29 of 2014.

Though the learned counsel for the appellant no.4 argues that there is enough materials on record to disbelieve the lodging of the F.I.R. and to disbelieve the eye-witnesses because of their delayed examination by the police and that the deceased was a hardened criminal, we take into account the fact that several cases are pending against the present petitioner/appellant no.4. He himself is a history-sheeter. Moreover, in paragraph 19 at page 31 of the aforesaid judgment learned 2nd Additional Sessions Judge, Cuttack has clearly observed that the eye-witnesses have stated that the above named six accused persons coming on three motor cycles and three pillion riders namely, accused Velar, Mantu and Rahul fired bullets on the deceased Keshab Behera causing serious injury on his person. In support of commission of offences by these six accused persons it has been categorically deposed to by the eye witnesses and there is absolutely no discrepancy

with regard to the role played by each of the accused persons at the time of occurrence. Learned 2nd Additional Sessions Judge, Cuttack has further held that in other words, the evidence of P.W.9, P.W.13 and P.W.19 has not been demolished by way of cross examination with regard to their deposition in respect of assault made and the role played by each of the accused persons at the time of occurrence. Learned 2nd Additional Sessions Judge, Cuttack has also held that besides, presence of all these witnesses were not un-natural in the scene of crimes since they belong to the same locality from which the deceased as well as the accused persons belong.

In view of such clear cut observations made by the learned 2nd Additional Sessions Judge, Cuttack, the criminal antecedent of the appellant no.4, the character of materials available on records and heinous nature of the crime, we are not inclined to grant bail to the petitioner/ appellant no.4 upon appeal.

In that view of the matter, this application filed under Section 389 of the Cr.P.C. by the appellant no.4 is rejected.

The I.A. is disposed of.

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S. K. Mishra, J.

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Dr. A.K. Mishra, J.

39. 31.07.2019

I.A. No.883 of 2019

This is an application filed by the appellant no.1- Biswanath Behera @ Velar for grant of interim bail.

Heard learned counsel for the appellant no.1 and the learned Additional Government Advocate.

It is submitted that the appellant no.1 is suffering from renal disorder and, therefore, he should be granted interim bail for a period of one month so that he can be treated by experts.

Learned Additional Government Advocate submits that in jail custody the appellant no.1 is being treated in S.C.B. Medical College and Hospital, Cuttack by Government expenditure and appropriate medicines are being administered to him.

In view of the fact that the appellant no.1 is being treated by Specialists of different faculties of S.C.B. Medical College and Hospital, Cuttack and there is no report to the effect that a surgical intervention is necessary for treatment of the appellant no.1, we are not inclined to grant interim bail to the appellant no.1.

Accordingly, this application filed by the appellant no.1 for interim bail is rejected.

The I.A. is disposed of.

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S. K. Mishra, J.

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Dr. A.K. Mishra, J.