

Ebiel Raita Vs State Of Odisha And Another

Court: Orissa High Court

Date of Decision: Jan. 24, 2022

Acts Referred: Juvenile Justice (Care and Protection of Children) Act, 2015 â€” Section 12, 102
Indian Penal Code, 1860 â€” Section 376(2)(n), 506
Protection of Children from Sexual Offences Act, 2012 â€” Section 6

Hon'ble Judges: Savitri Ratho, J

Bench: Single Bench

Advocate: S.K. Dash, Sibani Shankar Pradhan

Final Decision: Allowed

Judgement

Savitri Ratho, J

1. Heard Mr. S.K. Dash, learned counsel for the petitioner-CCL, and, Mr. A. Sibani, Shankar, Pradhan, learned, Addl. Govt. Advocate

for the State.

2. This is an application under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015, for grant of bail to the CCL- Ebiel

Raita in connection with J.R. Case No.06 of 2020 corresponding to Serango P.S. Case No.22 of 2020 in the Court of the Principal Magistrate ,

Juvenile Justice Board, Gajapati at Parlakhemundi registered for commission of offences punishable under Sections 376(2)(n)/506 of the I.P.C. and

Section 6 of the POCSO Act.

3. The prayer for bail of the CCL was rejected by the Principal Magistrate, Juvenile Justice Board, Gajapati at Parlakhemundi by order dated

04.06.2020 and thereafter by the learned Addl. District Judge -cum- Special Judge, Parlakhemundi in Criminal Appeal No. 2 of 2020 by order dated

26.06.2020.

4. The allegations against the CCL is that the CCL has sexually assaulted the minor daughter of the informant resulting in seven months pregnancy

and thereafter deliberately avoided to keep her as his wife and also flatly defied the decision taken by the village committee. The CCL was aged about

12 years and 6 months at the time of occurrence and had sexual intercourse with the minor victim after both developed love relationship with each

other when the victim was going to the jungle to graze the cattle and to collect the firewood. The CCL threatened the victim not to disclose the matter

after he come learn about her pregnancy.

5. Mr. Dash, learned counsel for the petitioner submitted that the petitioner was aged about 13 years at the time of occurrence and is in custody since

27.05.2021 and the allegation against the petitioner is that the petitioner and the victim used to go together for grazing their cows and during this time

they developed physical relationship as a result of which the minor victim girl became pregnant and in the meanwhile the victim girl has delivered a

child. He submits that the victim girl and the child are staying in the house of her parents. He further submits that the social investigation report of the

petitioner is favourable and in view of the mandate of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, the decisions of this

Court and the Hon'ble Supreme Court and there is no cogent material on record to show that the release of the petitioner is likely to bring him into

association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice, he

may be released on bail.

6. Mr. Pradhan, learned Addl. Govt. Advocate on instruction from the I.O. states that the victim girl and her child are staying in her parent's

house as the father of the victim is not willing to allow them to stay in the shelter home. He submits that the CICL will harass the victim girl if he is

released on bail and therefore his release will not be in the interest of justice.

7. Considering the submissions of the learned counsels, the nature of accusations against the CICL, the mandate of Section 12 of the Juvenile Justice

(Care and Protection of Children) Act 2015, the social background report, I am inclined to allow this Criminal Revision and set aside the impugned

orders and release the CICL on bail by the learned P.M.J.J.B., Gajapati at Parlakhemundi in J.R. Case No.06 of 2020 corresponding to Serango P.S.

Case No.22 of 2020 on such terms and conditions as deemed just and proper including the following conditions:-

The father-natural guardian of CICL shall furnish an undertaking that after release:

(i) He will not try to contact the victim girl.

(ii) The CICL will not indulge in any criminal activity.

(iii) He will pursue his studies or learn a vocation as per his interest.

8. The CRLREV is accordingly allowed and disposed of as such.

9. In view of the restrictions due to resurgence of COVID-19 situation, learned counsel for the parties may utilize a printout of the order available in

the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's

Notice No.4587, dated 25th March, 2020, modified by Notice No.4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo

Nos.514 and 515 dated 7th January, 2022.

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