

Sk. Gyasuddin and ors. Vs. State

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Court : Orissa

Decided On : Apr-08-1991

Reported in : 1991CriLJ2880

Judge : S.C. Mohapatra, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 157 and 439

Appeal No. : Crl. Misc. Case No. 283 of 1991

Appellant : Sk. Gyasuddin and ors.

Respondent : State

Advocate for Def. : Addl. Standing Counsel

Advocate for Pet/Ap. : P.K. Mishra and ;Basudev Mishra, Advs.

Disposition : Application rejected

Judgement :

ORDER

S.C. Mohapatra, J.

1. Allegation of missing of a girl aged about 10 years in the evening of 19-12-1990 and recovery of her dead body on 18-12-1990 in the early morning after FIR was lodged by father of the missing girl on 12-12-1990 at Balichandrapur Police Station

which has the out come to arrest the three accused persons on 19-2-1991 is subject matter of this application for bail Under Section 439, Cr. P.C.

2. Petitioner No. 1 is a leading personality of his community to which the girl also belongs. There is some material (to show?) that petitioner Nos. 2 and 3 are his associates. Investigation in this case by Officer-in-charge of the Police Station till 18-12-1990 could not lead to any result. Circle Inspector took up investigation after dead body was found. He also could not make any progress. Investigation was transferred to Crime Branch and the first Inspector who could not proceed further. The present investigating officer has arrested the accused persons.

3. From the investigation till this stage, there is no material directly connecting the accused persons. Some materials are available to indicate at the time when girl is alleged to be missing, the three accused persons were found nearby. Girl was heard to make a cry which was heard by a lady and another person. That person saw the three accused under a tree and the girl near about that tree when he crossed them to go to the bazar. On hearing the cry he looked back and did not find the girl or the three accused persons. There are some other materials on the case diary which reasonably created suspicion in the mind of the police officer that accused persons might have been connected with the crime. If I elaborate the same at this stage, it may be prejudicial to the accused persons. I can only state that suspicion of the investigating Officer cannot be said to be unreasonable or on account of extraneous consideration at this stage.

4. Who so ever might have committed the offence, there can be no doubt that it is heinous in character. If accused No. 1 with association of the other two has committed the same, it becomes more heinous on account of status of accused No. 1 in the community. Such offence is non-bailable. Investigating Officer is authorised Under Section 157, Cr. P.C. to take measures to arrest the offender in course of investigation. Apart from the fact that petitioner No. 1 is a leading member of the community and petitioner Nos. 2 and 3 are his associates, there is some material in case diary to disclose that petitioner No. 1 had threatened a person who stated about the three persons under the tree near about the time and place of occurrence. There can be reasonable suspicion that furtherance of

investigation may be affected if the petitioners are given liberty by bail.

5. In the aforesaid circumstances, I am not inclined to grant bail to the petitioners at this stage. Application is rejected.

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