

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.26 of 2022

Sunil Kumar Bisoyi

....

Appellant

Mr. Tapas Kumar Acharya, Advocate

-versus-

The State of Odisha and another

....

Respondents

Mr.K.K. Nayak, ASC for State-Respondent No.1

None appears for the Respondent No.2

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

10.05.2022

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Appellant and learned counsel for the State-Respondent No.1. None appears for the Respondent No.2 in spite of service of notice. Perused the Case Diary, F.I.R. Charge-Sheet, statement of the witness and medical examination report of the victim girl.
3. This appeal has been filed by the Appellant challenging the order dated 10.12.2021, passed by the learned Additional Sessions Judge-cum-Special Judge, Bhanjanagar, Ganjam in Special G.R. Case No.36 of 2021, arising out of Bellaguntha P.S. Case No.232 of 2021, for commission of alleged offences under Sections 294/376(2)(n)/387/506 of I.P.C. read with Sections 3(1)(r)(s)(w)/3(2)(v) and 3(va) of the S.C. and S.T. (P.A.) Act, 1989 and Section 67/67-A of I.T. Act, rejecting the bail application filed by the Appellant.

4. The case of the prosecution as per the FIR is that on 23.09.2021 at 2.00 P.M., one Sravani Sethi, D/o. Chittaranjan Sethi of Vill-Bellaguntha, Tulasipur, PS-Bellaguntha, Dist.-Ganjam being a complainant, lodged a written report before the I.I.C., Bellaguntha P.S. stating therein that she was studying at Sasibhusanrath Women's' College at Berhampur. During her study, she came in contact with the present Appellant through online chatting. Latter, the Appellant kept physical relation with her without her consent and made video graphy of the scene and assured her to delete the same. After some days, he asked to leave her house to go with him, but when she denied him, he abused her in obscene languages and threatened her. It is further alleged that the Appellant demanded to give a cash of Rs.5 lacks otherwise he will made viral of the video. After some days the Appellant sent the named videos to her family members and friends. Basing on the written report of the Informant, the I.I.C., Bellaguntha P.S. registered the case against the present Appellant and took up investigation.

5. It is submitted by learned counsel for the Appellant that he is in jail custody since the date of his arrest, i.e. 26.09.2021. It is further submitted that the investigation of the case is over and police has submitted charge-sheet in the meantime. It is further submitted by learned counsel for the Appellant that a false case has been foisted against the Appellant when the proposal of marriage did not materialize between the Appellant and the victim girl. The further submission is that the victim girl herself in the FIR has stated that she had dating the Petitioner and they were in relationship for quite some time. Further the Petitioner and the victim girl visited several places together. Since the marriage could not materialize, a false

case has been lodged against the Appellant. Further, the medical examination report also does not reveal any sign or symptom of rape and injuries on the private part or anywhere in the body of the victim girl.

6. Learned counsel for the State, on the other hand, submits that the allegation made in the FIR is very serious. He, however, submits that none appears for the Informant in spite of service of notice to the Informant to object the bail application of the Appellant. However, it is submitted that the Appellant had established consent sex with the victim girl. Later on, he started black mailing the victim girl by showing obscene photographs and demanded ransom. Accordingly, he urges rejection of the bail application.

7. Considering the aforesaid facts and circumstances of the case and the period of detention of the Appellant and also the fact that the victim girl herself admitted that she was dating the Appellant, who was her classmate, this Court sets aside the order dated 10.12.2021, passed by the learned Additional Sessions Judge-cum-Special Judge, Bhanjanagar, Ganjam in Special G.R. Case No.36 of 2021, arising out of Bellaguntha P.S. Case No.232 of 2021. It is further directed that let the Appellant be released on bail subject to furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with two solvent sureties for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following conditions:

- (i) He shall appear before the trial court on each and every date as fixed by the court;

- (ii) He shall appear before the I.O. once in a fortnight preferably on Sunday at 10.00 A.M. to 1.00 P.M.;
 - (iii) He shall not leave the jurisdiction of the concerned court without special permission;
 - (iv) He shall not tamper with the prosecution evidence;
 - (v) He shall not influence or threaten or terrorize any prosecution evidence and the Informant or her family members in any manner whatsoever and cooperate in the investigation;
 - (vi) He shall provide the present address and mobile number to the local police station, in the event of any change in the address or mobile number, the same shall also be intimated to the local police;
 - (vii) Violation of any of the above conditions shall entail cancellation of the bail; and
 - (viii) The trial court may impose any other condition(s), as deem fit and proper.
8. With the above direction, the CRLA is accordingly allowed.
9. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge