

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.560 of 2022

Niyuchand Behera

....

Petitioner

Mr. A.Das
Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P. Tripathy
Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

02.02.2022.

Order No.

01.

1. This matter is taken up through virtual mode.
2. Heard Mr. A.Das, learned counsel for the Petitioner and Mr.P. Tripathy, learned Addl. Standing Counsel for the State.
3. The Petitioner is in custody since 13th September, 2021 in connection with Phiringia P.S. Case No.77/2021 corresponding to C.T. Case No.313/2021 pending in the court of learned S.D.J.M., Phulbani for the alleged commission of the offence under Sections 376(2)(n)/506 of I.P.C.

4. As it appears, there was a proposal of marriage of the Petitioner with the victim girl but considering her age, the same was proposed to be deferred. Nevertheless the ring ceremony was held and thereafter the Petitioner is said to have visited the house of the victim several times. On one such occasion taking advantage of the absence of the family members of the victim he is alleged to have committed rape on her.

5. It is submitted by the Petitioner that the case has been foisted falsely against the Petitioner and there is absolutely no material to support the allegation of rape. Only because the marriage could not be solemnized for certain reason, the case has been foisted as a grudge against the Petitioner and his family. It is further submitted that the medical examination report of the victim does not reveal any sign or symptom of sexual intercourse.

6. Learned Addl. Standing Counsel for the State, on the other hand, has opposed the prayer for bail by submitting that there are adequate materials on record to show that the Petitioner forcibly committed sexual intercourse on the victim taking advantage of the situation.

7. Having considered the rival submissions, the nature of allegations, the period of detention already undergone and the fact that charge sheet has already been submitted in the case, I am inclined to allow the prayer for bail.

8. Let the Petitioner be released on bail on such terms and conditions as may be imposed by the court in seisin over the matter in the aforesaid case including the condition that he shall personally appear before the trial court on each date of posting of the case, failing which appropriate adverse orders may be passed by the court to take him to custody again. Further, he shall not approach, threaten, coerce or pressurize the victim in any manner whatsoever.

9. The BLAPL is disposed of.

10. As the restrictions due to resurgence of COVID-19 situation are continuing, 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.

AKB

(Sashikanta Mishra)
Judge