

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.74 of 2022

Subrat Patra

..... Petitioner
Mr.Pabitra Ku Nayak, Advocate

-versus-

State of Odisha & another

..... Opp.Parties
Mr.P.C.Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

11.03.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Additional Standing Counsel.
3. The present revision application is directed against the order dated 21.12.2021 passed by the learned Additional Sessions Judge-cum- Children's Court, Sundargarh in Criminal Appeal No.13 of 2021 corresponding to Special J.G.R.Case No.03 of 2021 arising out of Koida P.S.Case No.60 of 2021 for commission of alleged offence under Sections 376(3), 323, 506/34 of the Indian Penal Code read with Section 4 of the Protection of Children from Sexual Offence Act, 2012.
4. The Prosecution case as revealed from the F.I.R. in short is that the informant Sanu Palai, lodged a written report before the I.I.C., Koida P.S. alleging therein that on 01.07.,2021 night at 3 A.M. his daughter went outside of the house to attend call of nature,

but for some time when she did not return for which they searched for her and hearing the voice of his daughter in an abandoned house at a distance of 100 meters and found the present Petitioner was committing rape forcibly. The informant and his son brought his daughter to his house. The family members of the Petitioner came to his house on 02.07.2021 at 7 A.M. and assaulted them and threatened with dire consequences and threatened not to report at the Police Station.

5. It is submitted by the learned counsel for the Petitioner that the Petitioner is in custody since 07.07.2021 and that investigation of the case has been completed and the Police has filed charge sheet. It is further submitted by the learned counsel for the Petitioner that though the victim as well as the Petitioner are admittedly minor and belong to the same locality and are neighbours. He further submits that the victim and the Petitioner developed relationship. Further, on the date of occurrence, they found together in a nearby house. Further referring to the statement of the victim recorded under section 164 Cr.P.C., it is submitted that the victim has not alleged anything relating to commission of rape on her. Learned counsel for the Petitioner referring to the provision of section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 submits that the Petitioner, who admittedly a juvenile is entitled to the provisions as provided under the aforesaid Act and accordingly prays for release of the Petitioner on bail.

6. Learned Additional Standing Counsel on the other hand submits that the nature of allegations is heinous in nature. However, he has not disputed the fact that the Petitioner is a juvenile and he is entitled to the benefit as provided under section 12 of Juvenile Justice (Care and Protection of Children) Act, 2000. Further he submits that

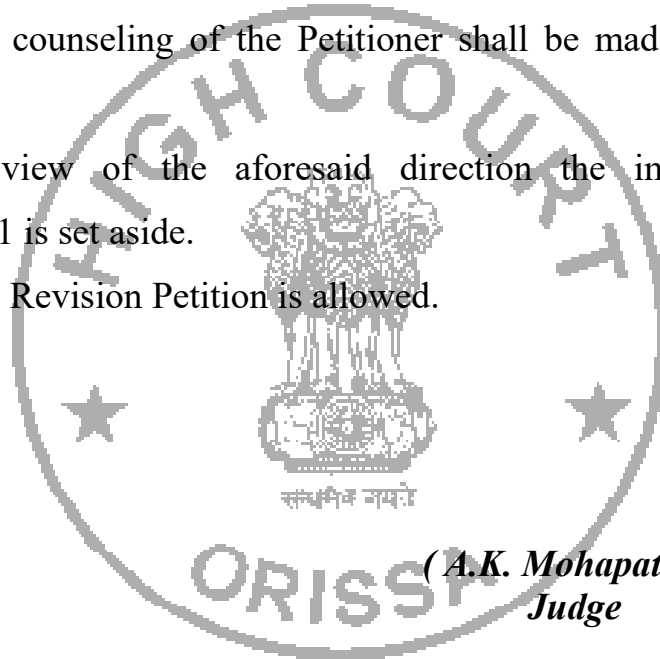
in the event the Petitioner is allowed to be released on bail, necessary direction be issued for his care and protection as well as counseling of the Petitioner while on bail.

7. Considering the aforesaid facts and circumstances of the case and the fact that both the Petitioner and victim are minor, this Court is inclined to release the Petitioner on bail subject to furnishing bail bond of Rs.30,000/- (Rupees Thirty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter. Further, it is open for the learned court below to fix suitable terms and conditions and care of the Petitioner can be taken and counseling of the Petitioner shall be made from time to time.

8. In view of the aforesaid direction the impugned order 21.12.2021 is set aside.

9. The Revision Petition is allowed.

RKS



(A.K. Mohapatra)
Judge