

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.1119 of 2021

Samir Sethi @ Samira Sethy ***Petitioner***
Mr.Alok Kumar Panda, Advocate

-versus-

State of Odisha ***Opposite Party***
Mr. S.Mishra, A.S.C.
Ms.Deepali Mohapatra, Advocate for the
informant

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

29.08.2022

Order No.

12.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel for the State.
3. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioner for bail in connection with Hinjili P.S.Case No.267 of 2020 corresponding to S.T.No.47 of 2020 pending in the Court of the learned Additional Sessions Judge, Aska for alleged commission of offence under Section 376(2)(n) of the Indian Penal Code.
4. On perusal of the order dated 08.08.2022, it appears that the Petitioner has surrendered before the court below on 13th June, 2022 and thereafter he was remanded to jail custody.
5. It is submitted by the learned counsel for the Petitioner that the Petitioner is in custody since 19.08.2020. Investigation has been

completed and charge sheet has been filed. She further submits that the petitioner as well as the informant were in love, as a result of which they had consensual sexual relationship. It is submitted by the learned counsel for the Petitioner that both the Petitioner and the victim were aged about 20 years at the time of occurrence. It is further submitted by the learned counsel for the Petitioner that since it was consensual sexual relationship no offence under section 376 of the Indian Penal Code is made out as both the Petitioner and the informant are major.

6. Learned counsel for the informant submits that as a result of consensual sexual relationship the informant has given birth to a female child. Now she is found difficulties to maintain the child alone. She further submits that the Petitioner is the father of the child. Learned counsel for the Petitioner disputes the paternity of the child. However she submits that the Petitioner is ready and willing to maintain the child if such a condition is imposed in the event the Petitioner is released on bail.

6. Having heard learned counsel for the parties, it is directed that let the Petitioner be released on bail on furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter subject to the conditions that the Petitioner while on bail shall not threaten, influence, terrorise or harass the informant or her family members, shall not tamper with the prosecution evidence and shall pay a sum of Rs.1000/-(Rupee one thousand) per month towards maintenance of the child till conclusion of the trial, shall not leave the jurisdiction of the court in seisin over the matter without the permission of the said court. Violation of the aforesaid conditions shall entail cancellation of bail.

7. It is open for the court in seisin over the matter to impose other conditions as may be deemed just and proper.
8. BLAPL is accordingly disposed of.
9. Issue urgent certified copy as per Rules.

RKS

(A.K. Mohapatra)
Judge

