

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.98 of 2022

Abhiram Bredeka

.... ***Petitioner***
Mr. Mahes Das, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. K.K. Nayak, A.S.C. for State

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
21.04.2022

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned counsel for the State. Perused the case records.
3. This criminal revision application has been filed by the Petitioner challenging the order dated 15.02.2022, passed by the learned Addl. District and Sessions Judge-cum-Special Judge, Children Court, Phulbani, in Criminal Appeal No.01 of 2022, arising out of J.J. Case No.02 of 2022, corresponding to Kotagarh P.S. Case No.03 of 2022, in the file of learned Principal Magistrate, J.J. Board, Phulbani, rejecting the bail application of the Petitioner/CCL.
4. The case of the prosecution is that on 11.01.2022, one Jhuni Patamajhi, who is 21 years of age lodged an FIR before the Kotagarh police station alleging therein that prior to five months, while she had gone to participate the engagement ceremony of the daughter of one Kalisha Sukamajhi at village Duriguda, there she met with the Petitioner and the Petitioner proposed her to keep love relationship. After some days, the Petitioner called her to nearby

jungle and with the promise of marriage, he kept physical relation with her. After some days, Petitioner took her to his house and there she remained with the Petitioner for one month and kept physical relationship with her. But finally the Petitioner denied to marry her and drove her out from his house and threatened to kill her. Basing on the FIR, Kotagarh P.S. Case No.03 of 2022 has been registered against the Petitioner for commission of alleged offences under Sections 366/376(2)(n)/323 and 506 of I.P.C. and subsequently forwarded to judicial custody.

5. It is submitted by learned counsel for the Petitioner/CCL has been languishing in jail custody since 14.01.2022. It is further submitted that the Petitioner was aged about 17 years and the victim girl was aged about 21 years at the time of the alleged occurrence and FIR as well as the materials collected by the I.O. would go to show that the alleged sexual act has been done on consent of the victim girl. Therefore, offence u/s.376(2)(n) is not made out.

6. Learned counsel for the State objects to the bail application of the Petitioner/CCL on the ground that Petitioner is implicated in a heinous crime and no sympathy should be shown to the accused involved in the case. But he does not dispute to the fact that this may be a consensual physical relation. However, he left on this Court to take a decision in the matter.

7. Considering the facts and circumstances of the case and keeping in view the materials available on record and also taking into consideration the custodial detention of the Petitioner/CCL, this Court is inclined to release the Petitioner/CCL subject to the Parent's of the Petitioner/CCL furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with one solvent surety for the like amount, if

desirable, one of the Parent will come forward and stand as surety to the satisfaction of the learned court in seisin of the matter.

8. Learned court below is further directed to fix the terms and conditions keeping in view the welfare of the Petitioner/CCL. The Parents of the Petitioner/CCL shall also undertake that the Petitioner does not get involved in any criminal activities. The Probation Officer is directed to visit the Petitioner/CCL and report to the court in seisin over the matter once in every month. Accordingly, the impugned order 15.02.2022, passed by the learned Addl. District and Sessions Judge-cum-Special Judge, Children Court, Phulbani, in Criminal Appeal No.01 of 2022 is set aside.

9. CRLREV is accordingly allowed.

10. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge