

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2021 of 2022

Deepak @ Deepu Sahu **Petitioner**

Mr. B.K. Ragada, Advocate

-versus-

State of Odisha **Opp. Party**

*Mr. Manoranjan Mishra,
Addl. Standing Counsel*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
30.06.2022**

Order No.

01. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

This is an application under section 439 of Cr.P.C. in connection with C.T.(Ses) Case No.35 of 2020 arising out of Jharsuguda P.S. Case No.835 of 2019 pending in the Court of learned Additional Sessions Judge, Jharsuguda for offences punishable under sections 376(2)(n) and 506 of the Indian Penal Code.

The petitioner moved an application for bail before the Court of learned Additional Sessions Judge, Jharsuguda, which was rejected on 26.02.2022.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 31.12.2019 and though his earlier bail application in BLAPL No.4943 of 2020 was rejected as per order dated 10.02.2021 taking into account the 164 Cr.P.C. statement of the victim, but direction was given to the learned trial Court to expedite the trial and take steps for examination of the victim at the first instance and the petitioner was given liberty to renew his prayer for bail after examination of the victim in the learned trial Court. Learned counsel for the petitioner placed the rejection order dated 26.02.2022 of the learned trial Court from which it appears that summons were issued to the victim through Inspector in-charge of Jharsuguda police station and Judge in-charge of Nizarat, Birmaharajpur. However, the Inspector in-charge of Subalaya police station submitted the report dated 19.01.2022 that the victim was missing from her house since ten years before and her family members could not able to trace her till that date. The Inspector in-charge of Jharsuguda police station also submitted a report on 05.02.2022 wherein it is mentioned that staffs were deputed for service of summons on the victim girl at her native place, but the victim could not be traced out and her parents also stated that since last ten years, she left the house for job and they have no idea about her present

whereabouts. In paragraph 5 of the rejection order it is mentioned as follows:

"..... The IIC, Jharsuguda P.S. submitted report regarding whereabouts of the victim vide DR No. 622/PS dated 22.02.2022 stating that on the day of occurrence the victim girl was in trauma for which she was temporarily accommodated at one Stop Center SAKHI, Jharsuguda for conciliation from 26.12.2019 to 01.01.2020. The victim was not interested to go to her native village under Subalaya P.S. of district Subnarnapur for which she was shifted to Swadhar Gruha on 01.01.2020. On 21.03.2020 the victim girl herself left Swadhar Gruha to her native village Chouka. Summon was issued to the victim girl at her native village. In this case in spite of taking all steps, the attendance of the victim could not be procured to record her statement. "

Learned counsel further submitted though seven witnesses including the doctor out of thirty five charge sheet witnesses have been examined in the learned trial Court so far, but since the prosecuting agency has failed to produce the victim before the learned trial Court for her examination and the victim's whereabouts is not known, the petitioner may

be granted interim bail for some period.

Learned counsel for the State, on the other hand, opposed the prayer for bail mainly on the ground that it is a case of gang rape.

Considering the submissions made by the learned counsel for the respective parties, the period of detention of the petitioner in judicial custody and the fact that the victim's whereabouts is not known as per the report submitted by the police authorities before the learned trial Court, at this stage, while not inclining to release the petitioner on bail on merit, I am inclined to release the petitioner on interim bail for a period of three months from the date of release and the petitioner shall surrender before the learned trial Court immediately on expiry of the three months period.

For the above period, let the petitioner be released on interim bail in the aforesaid case on furnishing bail bond of Rs.50,000/-(rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with further terms and conditions that while on interim bail, the petitioner shall not try to come in contact with any of the prosecution witnesses or tamper with the evidence, he shall not indulge in any criminal activities and he shall appear before the learned trial Court on each

date on which the date would be fixed for trial during the period of interim bail. The Inspector in-charge of Jharsuguda police station shall keep a close vigil over the activities of the petitioner during the interim bail period.

Violation of any terms and conditions shall entail cancellation of interim bail.

Accordingly, the BLAPL is disposed of.

Issue urgent certified copy as per Rules.



PKSahoo