

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.188 of 2022

Susanta Kumar Mahanta ***Appellant***
Mr.Indramani Sahoo,Advocate

-versus-

State of Odisha and another ***Respondents***
Mr.P.C.Das, A.S.C..

CORAM:

JUSTICE A.K. MOHAPATRA

Order No.

ORDER
10.05.2022

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Appellant as well as learned Additional Standing Counsel.
3. This is an appeal filed under Section 14(A) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
4. The present appeal is directed against the order dated 03.03.2022 passed by the learned Additional Sessions Judge,Bonai in rejecting the bail application of the appellant in connection with Lahunipada P.S.Case No.148 of 2021 corresponding to Spl.G.R.Case No.05 of 2021 pending in the Court of the learned Additional Sessions Judge,Bonai for alleged commission of offences under Section 376(2)(n), 417, 312, 506/34 of the Indian Penal Code read with Sections 3(2)(v) and 3(2)(v)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
5. The prosecution case in brief is that the informant lodged an

F.I.R. on 04.09.2021 before the Lahunipada P.s. stating therein that she had love relationship with the present Petitioner since last five years and on the pretext of marriage he kept physical relationship with her without her consent on many occasions, as a result she got pregnant and when she disclosed the same to the Petitioner he tried to avoid and when she insisted he took her to his cousin house at Rourkela with the promise of marriage and kept her for another four days. Thereafter the Petitioner brought the informant and left her in her house and denied to marry her.

6. It is submitted by the learned counsel for the Appellant that the appellant is in custody since 06.09.2021 and in the meantime investigation of the case has been completed and charge sheet has been filed. He further contended that the victim and the appellant were in love relationship for a quite long time. Further they were having physical relationship with consent of both the Petitioner and the informant. However, since marriage could not be materialized for some reasons, the victim girl lodged complaint against the Petitioner to harass the Petitioner. Learned counsel for the appellant drawing the attention of the Court to the F.I.R. as well as the statement of the victim submits that the victim herself has stated that she had relationship with the appellant and they were living together. Further referring to the medical examination report of the victim he further submits that there is no sign of recent sexual intercourse. Learned counsel for the appellant submits that the medical evidence does not support the prosecution case. He further submits that the appellant is a local resident having his immovable properties, there is no chance of his absconding or fleeing away from the hands of justice. Further in the event the appellant is released on bail he will appear before the trial court on each date of posting of the

case and he shall abide by any terms and conditions that may be imposed by this Court.

7. Learned Additional Standing Counsel on the other hand opposes the prayer for bail of the appellant on the ground that the allegation made in the F.I.R. is serious in nature. He further submits that such type of offences are rising and no leniency should be shown to the accused who are involved in such type of offence.

8. On examination of the records, it is found that both the victim and the appellant are major and they are 22 and 28 years respectively. Therefore considering the materials they were in love relationship and they were moving round together and as such they are not new to the sexual passion.

9. Having heard learned counsel for the parties and keeping in view the surrounding circumstances of the present case and keeping in view the nature of allegations made and taking into consideration the statement of the victim recorded under section 164 Cr.P.C. and the medical examination report of the victim and further keeping in view the period of custodial detention of the appellant since 2021, this Court is inclined to release the appellant on bail and the appellant be released on bail in the aforesaid case subject to the appellant furnishing a 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 subject to the following terms and conditions

- i) he shall appear before the concerned Police Station once in a fortnight preferably on Sunday between 10 A.M. to 1 P.M. till conclusion of trial.
- ii) shall cooperate with the trial of the case and shall appear in trial court on each and every date to which the case is posted.
- iii) shall not indulge in any offence of similar nature

- iv) shall not tamper with the prosecution evidence while on bail.
- v) shall not influence or threaten any prosecution evidence while on bail.
- vi) Violation of any of the terms and conditions shall entail cancellation of bail.

10. The impugned order dated 03.03.2022 passed by the learned Additional Sessions Judge, Bonai in Spl.G.R.Case No.05 of 2021 is hereby set aside.

11. With the aforesaid observation the appeal is allowed without cost.

12. Issue urgent certified copy as per Rules.

RKS

