

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No.3004 of 2022**

***Sk. Samsad***

.... ***Petitioner***  
***Mr. G. Singh, Advocate***

***-versus-***

***State of Odisha and another***

.... ***Opp. Parties***  
***Mr. S.R. Roul, ASC***  
***Mr. S.K. Biswal, Adv.(Informant)***

**CORAM:**

**JUSTICE G. SATAPATHY**

**ORDER**

**24.11.2022**

**Order No.**

- 04.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
  2. This is an application U/S. 439 of Cr.P.C. by the petitioner for grant of bail in connection with Purunabazar P.S. Case No.59 of 2021 arising out of Spl. POCSO Case No.16 of 2021 pending in the Court of learned Special Judge-cum-A.D.J., Bhadrak for commission of offences punishable under Sections 376(2)(n)/376(3)/109/34 of IPC read with Section 6 of POCSO Act, on the allegation of committing rape and aggravated penetrative sexual assault upon the victim girl.
  3. In the course of hearing of the bail application, Mr. G. Singh, learned counsel for the petitioner submits that the petitioner is falsely implicated in this case and he is no way connected with the crime, but the petitioner is languishing in jail custody since 21.02.2021. It is further submitted by him that the alleged occurrence took place on 13.02.2021 and FIR was lodged after a delay of four days with no

injury on the person of the victim and thereby, the medical report completely belies the allegations and, therefore, the petitioner being an innocent person may kindly be enlarged on bail. It is also submitted by him that despite service of summon upon the victim, she is not coming up to depose evidence and the Court has also issued DW against the victim. Learned counsel for the petitioner has also filed the certified copy of the deposition of P.W.1 and the order sheet dated 26.10.2022 to show that the victim has not turned up to depose the evidence. Learned counsel for the petitioner under the aforesaid submissions prays to enlarge the petitioner on bail.

4. On the contrary, Mr. S.R. Roul, learned Additional Standing Counsel for the State strongly opposes the bail application of the petitioner and he by relying upon the medical examination report of the victim submits that the opinion of doctor indicates that the sexual act upon the victim cannot be ruled out and thereby, the petitioner having prima facie been found to have committed the alleged act should not be enlarged on bail.

5. Mr. S.K. Biswal, learned counsel for the informant submits that the victim is a dumb and semi mad girl and taking advantage of such disability of the victim, the petitioner has committed the act and, therefore, the petitioner should not be enlarged on bail.

6. Considering the rival submissions made, nature and gravity of accusations raised against the petitioner as also the gravity of offence alleged and the specific allegation against the petitioner for ravishing and committing aggravate penetrative sexual assault upon the victim stated to be dumb and semi mad girl and keeping in view the other circumstances on record, this Court, therefore, considers it undesirable to grant bail to the petitioner.

7. Hence, the prayer for bail of the petitioner stands rejected.
8. Accordingly, the BLAPL stands disposed of.
9. Issue urgent certified copy of the order as per Rules.

**(G. Satapathy)**  
**Judge**

*Subhasmita*

