

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3088 of 2022

Sandeep Kumar

....

Petitioner

Mr. D. Panda, Sr. Advocate

-versus-

State of Odisha and another

....

Opp. Parties

Mr. M. Mishra, ASC

BLAPL No.5514 of 2021

Pandit @ Pappu @ Pritam Tiwari

....

Petitioner

Mr. A.K. Jena, Advocate

-versus-

State of Orissa

....

Opp. Party

Mr. M. Mishra, ASC

CORAM:

JUSTICE G. SATAPATHY

ORDER

20.12.2022

Order No.

BLAPL No. 3088 of 2022 & BLAPL No. 5514 of 2021

- 08.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Since both these bail applications of the petitioner Sandeep Kumar in BLAPL No.3088 of 2022 and petitioner Pandit @ Pappu @ Pritam Tiwari in BLAPL No.5514 of 2021 arise out of one and same case, the same are heard together and disposed of by this

common order after taking into consideration the submissions made on behalf of each of the petitioner and the State.

3. These are applications U/S. 439 of Cr.P.C. by the petitioners for grant of bail in connection with Brajaraj Nagar P.S. Case No.2 of 2019 corresponding to C.T. (Spl.) Case No.2 of 2019, pending in the Court of learned Additional District Judge-Cum-Special Judge POCSO, Jharsuguda for commission of offences punishable under Sections 120-B/370(4)/341/344/376(3)/376(2)(n)/323/506 of IPC read with Section 6 of POCSO Act, Section 9 of Prohibition of Child Marriage Act, Section 75/81 of JJ Act and Section 3(2)(v)/3(2)(va) of SC & ST (PA) Act against petitioner-Sandeep Kumar and for offences punishable under Sections 120-B/366-A/370(4)/370-A/344/376(3)/34 of IPC read with Section 6/17 of POCSO Act, Section 9/10 of Prohibition of Child Marriage Act, Section 75/81 of JJ Act and Section 3(1)(w)(i)/3(2)(v) of SC & ST (PA) Act against petitioner- Pandit @ Pappu @ Pritam Tiwari, on the main allegations of trafficking the minor victim girl belonging to Schedule Caste and committing rape and aggravated penetrative sexual assault upon her.

4. In the course of hearing of the bail applications, Mr. D. Panda, learned Senior Counsel for the petitioner-Sandeep Kumar by filing the copy of certain documents of the Court of learned Additional Sessions Judge-cum-Judge, Fast Track Special Court under POCSO Act, Bhiwani submits that the petitioner is being tried in the Court of Bhiwani for the occurrence before lodging of FIR in this case on self same accusations and occurrence and, thereby, the principle of double jeopardy would squarely be attracted debarring the prosecution in this case in the Court of learned A.D.J-Cum-P.O. Spl.

Court, POCSO Act, Jharsuguda. Learned Senior Counsel further submits by referring to the statement of the victim that the petitioner-Sandeep Kumar has not been named by the victim for commission of any offence upon her and co-accused-Asish Jaiswal, against whom the main allegations of rape and aggravated penetrative sexual assault have been directed, has already been granted bail in this case. It is further submitted by him that the petitioner is in custody since 03.04.2019 for the case relating to the incident at Bhiwani and he has been remanded again in this case and trial having already commenced with examination of the victim, as such there is no chance of tampering of prosecution evidence and, thereby, the petitioner may kindly be granted bail.

5. Mr. A.K. Jena, learned counsel appearing on behalf of Mr. S.K. Panda, learned counsel for the petitioner-Pandit @ Pappu @ Pritam Tiwari submits that the petitioner has no role in commission of rape upon the victim and he having detained in custody substantially, may kindly be granted bail.

6. On the contrary, Mr. M. Mishra, learned ASC, however, by placing the evidence of the victim submits that both the petitioners do not deserve the benefit of bail in this case. It is accordingly prayed by him to reject the bail application of the petitioners.

7. After having considered the rival submissions made and taking into consideration the nature and gravity of accusations raised against each of the petitioners as well as the gravity of offences alleged against the petitioners and on going through the evidence of victim recorded by the learned trial Court and other circumstance on record in this case in entirety, this Court does not feel it proper to grant bail

to the petitioners.

8. Hence, the bail applications of, the petitioner Sandeep Kumar in BLAPL No.3088 of 2022 and the petitioner Pandit @ Pappu @ Pritam Tiwari in BLAPL No.5514 of 2021 are hereby rejected and both the bail applications are accordingly disposed of.

9. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

Subhasmita

