

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3262 of 2022

Santosh Patra

.... ***Petitioner***
M/s. P. Patra, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s. S.S. Pradhan, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER
21.11.2022

Order No.

- 08.
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 Malgodown P.S. Case No.57 of 2022 corresponding to G.R. Case No.32 of 2022 pending in the Court of learned A.D.J.-cum-Special Court under POCSO Act, 2012, Cuttack for commission of offence punishable U/Ss. 376(1) of the I.P.C. read with section 67B of Information and Technology Act, 2000 read with section 4 and 5 of Protection of the Children from Sexual Offence Act, 2012 read with section 3(2)(va) of SC and ST (Prevention of Atrocities) Act, 1989, on the allegation of committing rape and penetrative sexual assault upon the victim and getting the intimate scene shot at by the mobile phone camera and got the video footage uploaded in instagram from his own mobile taking advantage of caste of the victim.

3. In the course of hearing of the bail application, Mr. P. Patra, learned counsel for the petitioner by filing the certified copy of the surrender certificate submits that the petitioner has already surrendered to custody after availing the interim bail. The surrender certificate be kept on record. It is further submitted by learned counsel that the petitioner is innocent and he has not committed any offence, rather the petitioner has been falsely implicated in this case. It is also submitted by him that the petitioner was granted interim bail in five spells, but he has never misused the liberty so granted to him and if at all, there is any allegations against the petitioner, let him face the trial and in case his guilt is established, there is no harm to detain him in custody, but at this stage when the guilt of the petitioner is yet to be established, it would be not only improper but also against the personal liberty of the petitioner to detain him in custody any further. It is, accordingly, prayed by him to allow the petitioner to avail the benefit of bail.

4. Mr. S.S. Pradhan, learned counsel for the State, however, strongly opposes the bail application of the petitioner by inter alia submitting that during the course of investigation, the I.O. has verified the I.P. address with reference to I.M.E.I. number of mobile phone by which the video footage containing inappropriate scene of the victim was uploaded and it was established therein that the mobile phone of the petitioner was used to upload the inappropriate scene of the victim in the instagram. Learned counsel for the State accordingly prays to reject the bail application of the petitioner.

5. Considering the rival submissions made, nature and gravity of accusations raised against the petitioner as also the gravity of offences and the alleged role played by the petitioner and regard

being had to the allegation against the petitioner for not only ravishing the victim but also getting the video footage containing the sexual content relating to the victim uploaded in instagram and taking into consideration other circumstances in entirety, this Court does not feel it proper to release the petitioner on bail.

6. Hence, the prayer for bail of the petitioner is rejected.

7. Accordingly, the BLAPL stands disposed of.

8. Urgent certified copy of the order be granted on proper application.

Kishore

