

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3404 of 2022

Rajesh Kumar Behera

....

Petitioner

Mr. B. Manasingh, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

Order No.

ORDER
16.05.2022

- 01.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the F.I.R., case diary, the statement of the witnesses and other relevant documents on record and the statement of the victim recorded under Section 164 of the Cr.P.C.
 3. This is an application under Section 439 of the Criminal Procedure Code.
 4. The Petitioner is an accused in C.T. Case No.195 of 2022 arising out of Khajuripada P.S. No.44 of 2022 pending in the court of learned S.D.J.M., Phulbani for commission of offence punishable under Sections 376(2)(n)/509, I.P.C.
 5. It is alleged that the petitioner forcibly kept physically relationship with the victim against her will and the same has been continued till one and half years. Thereafter, the present case has been lodged against the petitioner.

6. Learned counsel for the Petitioner submits that the Petitioner is in custody since 16.03.2022 and in the meantime, investigation has been concluded and charge-sheet has already been submitted. He further submits that the victim girl is aged about 39 years old and the present petitioner is 26 years old. Further, learned counsel for the petitioner submits that the victim has filed an affidavit stating therein that she does not want to proceed with the matter any further. Hence, the case may be dropped.

7. Further, learned counsel for the petitioner submits that as per medical examination report of the victim, there is no sign or symptom of recent sexual intercourse and that there is no scope for absconding or fleeing away from the hands of the justice, as the Petitioner is permanent resident of the locality.

8. Mr. Mohanty, learned Additional Standing Counsel for the State, vehemently, opposes the prayer for bail of the petitioner on the ground that the alleged crime is heinous in nature. Therefore, he prays for rejection of the bail application of the petitioner. He also submits that in the event the petitioner released on bail, he might threaten / influence the prosecution witnesses particularly the victim. Further, he submits that in the event this Court is inclined to release the petitioner on bail, some stringent terms and conditions may be imposed.

9. Considering the facts and circumstances, materials on record and the period of custodial detention of the Petitioner, it is directed that let the Petitioner be released on bail on furnishing a bail bond of Rs.30,000/- (rupees thirty thousand) with two local solvent sureties for the like amount to the satisfaction of the learned court in seisin over the matter subject to conditions that :-

- I. The Petitioner shall not be involved in any offence of similar nature;
- II. he shall not tamper with the prosecution evidence or make any attempt to threaten or influence the witnesses especially the victim or her family members in any manner whatsoever;
- III. he shall not make any default in attending the court during trial on each date;
- IV. he shall not make any attempt to contact the victim and shall stay away from the victim and her family members; and
- V. he shall appear before the concerned Police Station once in a fortnight preferably on 'Sunday' in between 10.00 A.M. to 1.00 P.M. till conclusion of trial.

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

10. It is open for the court in seisin over the matter to impose other conditions may deem just and proper.

11. The Bail Application is accordingly disposed of.

Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge

