

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2753 of 2021

Nitin Singh

.... ***Petitioner***
Mr. B. Tripathy, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
Mr. P.K. Pattnaik, A.G.A.

**CORAM:
JUSTICE G. SATAPATHY**

**ORDER
30.11.2022**

Order No.

16. 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 Chandilil P.S. Case No.270 of 2020 corresponding to T.R. Case No.76 of 2020 of the Court of learned Additional District and Sessions Judge-cum-Special Court under POCSO Act, Rayagada for commission of offences punishable U/Ss. 363/376(2)(n)376(3) of IPC and Section-6 of POCSO Act on the allegation of committing rape and aggravated penetrative sexual assault upon the victim by kidnapping her.
3. In the course of hearing of the bail application, Mr. B.R. Tripathy, learned counsel for the Petitioner by filing the certified copy of surrender certificate of the Petitioner submits that the Petitioner has voluntarily surrendered to custody in due time after availing interim bail and, thereby, his conduct in attending the Court cannot be questioned. It is further submitted by him that although the Petitioner has been detained in custody for around two years, but the trial is yet to be concluded and the victim has neither stated any sexual act committed upon her in her statement under section 164 Cr.P.C. nor is there any evidence against the Petitioner for commission of any offence, but the petitioner has been falsely implicated

in this case for obvious reason not known to the Petitioner. Learned counsel for the Petitioner, accordingly, prays to enlarge the Petitioner on bail.

4. On the contrary, Mr. P.K. Pattnaik, learned A.G.A. for the State submits that the victim has already been examined in this case and she has implicated the Petitioner for committing sexual assault upon her and therefore, the Petitioner may not be granted bail.

5. Considering the rival submissions made, the nature and gravity of accusations raised against the Petitioner and taking into consideration the surrounding circumstances including the pre-trial detention of the Petitioner for near about two years as well as the statement of the victim and regard being had to the fact that the object of bail is not punitive vis-a-vis the principle bail is the rule, but jail is the exception, this Court grants bail to the Petitioner.

6. Hence, the prayer for the bail of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bond of Rs.25,000/- with one solvent surety each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with and that he shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

It is clarified that the Court in seisin of the case will be at liberty to cancel the bail of the Petitioner without further reference to this Court, if any of the above conditions are violated or a case for cancellation of bail is otherwise made out.

7. Accordingly, the BLAPL stands disposed of.

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

(G. Satapathy)
Judge

