

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

**BLAPL No.3608 of 2022**

***Subash Sagar***

***....***

***Petitioner***

*Mr. S.K. Mahanty, Advocate*

*-versus-*

***State of Odisha***

***....***

***Opp. Party***

*Mr. Manoranjan Mishra,  
Addl. Standing Counsel*

**CORAM:  
JUSTICE S.K. SAHOO**

**ORDER  
30.06.2022**

**Order No.**

01.

This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

संक्षेपिक न्यायो

This is an application for bail under section 439 of Cr.P.C. in connection with G.R. Case No.77 of 2021 arising out of Jharigaon P.S. Case No.15 of 2021 pending in the Court of learned J.M.F.C., Umerkote for offences punishable under sections 376(2)(n)/506/313/34 of the Indian Penal Code.

The petitioner moved an application for bail before the Court of learned Additional Sessions Judge, Umerkote, which was rejected on 18.04.2022.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 04.02.2021 and his earlier bail application in BLAPL No.691 of 2022 was

rejected as per order dated 25.02.2022 and liberty was granted to the petitioner to renew the prayer for bail after examination of the victim in the trial Court. It is submitted by the learned counsel for the petitioner that in the meantime, trial has commenced and the victim has been examined as P.W.2 and from her evidence, it appears that she was a consenting party and was keeping physical relationship with the petitioner and getting pregnant and aborting pregnancy and therefore, the ingredients of the offence under section 376 of the Indian Penal Code will not be attracted.

Learned counsel for the State also placed the evidence of the victim from which it appears that the victim has stated that her pregnancy was aborted automatically and the petitioner had never given any medicines for her abortion and that she had never been conceived by the petitioner and that the petitioner nor the co-accused Kanta Sagar had forcibly kidnapped her and that the family members of the petitioner had never threatened her.

Considering the submissions made by the learned counsel for the respective parties, the period of detention of the petitioner in judicial custody, the nature of evidence adduced by the victim in the trial Court, I am inclined to reconsider the prayer for bail and direct the petitioner to be released on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) with two local solvent sureties each for the like

amount to the satisfaction of the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper subject to conditions that the petitioner shall appear before the learned trial Court on each date when the case would be posted for trial and shall not indulge in any criminal activities and shall not try to tamper with the evidence.

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

While disposing of this bail application, the findings recorded herein are for the purpose of adjudication of this bail application only. This may not be taken as an expression of opinion on the merits of the case. The learned trial Court would be at liberty to decide the matter in the light of evidence which shall come on record after it is led de hors any finding recorded in this order.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

**( S.K. Sahoo )**  
**Judge**