

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3693 of 2022

Amar @ Ambar Naik* *Petitioner

Ms.D.R. Nanda, Advocate

-versus-

State of Odisha* *Opp.Party

*Mr.Arupananda Das,
Addl. Government Advocate*

BLAPL No.3305 of 2022

Lipun Naik* *Petitioner

Mr.R.K. Mahapatra, Advocate

-versus-

State of Odisha* *Opp.Party

*Mr.Arupananda Das,
Addl. Government Advocate*

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

**ORDER
14.10.2022**

Order No.

01. Both the matters are taken up through Hybrid arrangement (video conferencing/physical mode).

Ms. D.R. Nanda, learned counsel files consent memo for appearing on behalf of the petitioner Amar @ Ambar Naik in BLAPL No.3693 of 2022, which is taken on record.

Since both the bail applications arise out of one P.S. Case, with the consent of the learned counsel for the parties, they are heard together.

Heard Ms. D.R. Nanda, learned counsel for the petitioner Amar @ Ambar Naik in BLAPL No.3693 of 2022 and Mr. R.K. Mahapatra, learned counsel for the petitioner Lipun Naik in BLAPL No.3305 of 2022

Both the bail applications have been filed under section 439 of Cr.P.C. for grant of bail to the petitioners in connection with Chhendipada P.S. Case No.133 of 2019 corresponding to C.T.(S) Case No.02 of 2020 pending in the Court of learned Addl. Sessions Judge, Angul for offences punishable under sections 341, 376D, 506/34 of the Indian Penal Code.

The bail application of the petitioner Amar @ Ambar Naik in BLAPL No.3693 of 2022 was rejected on 10.03.2022 and that of the petitioner Lipun Naik in BLAPL No. 3305 of 2021 was rejected on 09.03.2022 by the learned Addl. Sessions Judge, Angul.

Learned counsel for the petitioners files the certified copy of the deposition of the victim, which is taken on record.

Learned counsel for the petitioners submitted that the petitioner Amar @ Ambar Naik is in judicial custody since 06.10.2019 and the petitioner Lipun Naik is in judicial custody since 30.11.2019 and their earlier bail application in BLAPL No. 9014 of 2019 was rejected as per order 15.09.2020 mainly relying upon the 164

Cr.P.C. statement of the victim and the nature and gravity of accusation against the petitioners and the petitioners were given liberty to renew their prayer for bail after examination of the victim in the learned trial Court. Learned counsel further submitted that in the meantime the victim has been examined as P.W.13 in the learned trial Court and she has been declared hostile by the prosecution. Learned counsel further submitted that the learned Addl. P.P. orally prayed the learned Court below for permission to put leading questions to the victim under section 154 of Cr.P.C. and the same has been allowed and pursuant to the questions put by the learned Addl. P.P. to the victim with reference to her earlier statements made under sections 161 and 164 of Cr.P.C., though the victim admitted that both the petitioners have committed rape on her, but in the cross-examination, she stated that the petitioners kept physical relationship with her consent, that her mother told her to give complaint before the police so that her father would come out from the jail, that she stated before the Magistrate as per the instruction of her mother, that the accused persons did not threaten her and she stated so at the instance of her mother, that the accused persons did not threaten her by showing knife and she stated so at the instance of her mother and she was deposing all the facts at the instance of her mother and she has not been examined by the police. Learned counsel for the petitioners submitted that in view of the

evidence of the victim and the change in the circumstances, particularly, the period of detention of the petitioners in judicial custody, their bail applications may be favourably reconsidered.

Learned counsel for the State placed the evidence of the victim and opposed the prayer for bail.

Considering the submissions made by the learned counsel for the respective parties, the change in the circumstances after rejection of the earlier bail application, the evidence of the victim being examined as P.W.13 in the learned trial Court, the progress of trial so far, the period of detention of the petitioners in judicial custody, I am inclined to reconsider the prayer of the petitioners for bail and direct them to be released on bail.

Let the petitioners be released on interim bail in the aforesaid case on furnishing bail bond of Rs.50,000/- (rupees fifty thousand) each with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper including the conditions that they shall not indulge in any criminal activities, shall not try to tamper with the evidence and shall appear before the learned trial Court on each date to which the case would be posted for trial during trial.

Violation of any of the terms and conditions shall

entail cancellation of bail.

Accordingly, both the BLAPLs is disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

PKSahoo

