

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.191 of 2021

Kalia Naik

***.... Appellant/
Petitioner***

Mr.S.K. Pal, Advocate

-versus-

State of Odisha & another

***Respondents/
Opp. Parties***

Mrs. Susamarani Sahoo
Addl. Standing Counsel

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

**ORDER
25.04.2022**

Order No.

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

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

None appears for the informant opposite party no.2 even though notice was made sufficient pursuant to the order dated 13.12.2021.

This is an appeal under section 101(5) of Juvenile Justice (Care and Protection of Children) Act, 2015 read with section 374 of Cr.P.C. in connection with Special Case No. 28 of 2020 arising out of

Khaira P.S. Case No.285 of 2020 pending in the Court of learned Special Judge, Balasore for alleged commission of offences punishable under sections 341, 376(f)(i)(k), 376(ab), 294, 506/34 of the Indian Penal Code and section 6 of POCSO Act.

The bail application of the petitioner was rejected by the Special Judge, Balasore as per order dated 23.03.2021.

Learned counsel for the petitioner submitted that the earlier bail application of petitioner in BLAPL No. 2638 of 2020 was rejected as per order dated 14.10.2020 and liberty was granted to the petitioner to renew his prayer for bail after examination of the victim in the learned trial Court. It is submitted that the petitioner is in judicial custody since 28.12.2019 and as such, he has remained in custody for more than three years and three months and in the learned trial Court out of fifteen charge sheet witnesses, only four witnesses have been examined. Referring to the evidence of the victim in cross examination in paragraph 5, it is contended by the learned counsel for the petitioner that the accusation against the petitioner may at best make out a case of attempt to rape and the doctor being examined as P.W.3 has categorically stated that there was no forcible sexual intercourse and there was no injury on the person of the victim and the pubic hair was not matted and not stained even though the victim was examined on the

next day of the occurrence. Learned counsel further submitted that in view of the change in the circumstances and the period of detention of the petitioner in judicial custody, his bail application may favourably reconsidered.

Learned counsel for the State opposed the prayer for bail.

Considering the submission made by the learned counsel for the respective parties, the nature of evidence adduced by the prosecution during trial so far, delay in disposal of trial and the period of detention of the petitioner in judicial custody, I am inclined to reconsider the prayer for bail and accordingly, direct release of the petitioner on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000/- (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with such terms and conditions as the learned Court may deem just and proper.

The CRLA stands disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

