

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3846 of 2022

Saroj Biswal @ Suraj @ Suran

.... Petitioner
Mr. A.S. Paul, Advocate

-versus-

State of Odisha

.... Opp. Party
Mr. P.K. Pattanaik, A.G.A.
Mr. H. Subudhi, Adv.(Informant)

CORAM:
JUSTICE G. SATAPATHY

Order No.

ORDER
27.10.2022

06. 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 Bharatpur P.S. Case No.77 of 2022 corresponding T.R. Case No.84 of 2022 pending in the Court of learned Addl. Sessions Judge, Bhubaneswar for commission of offences punishable under Sections 376(D)/376(2)(n)/342/323/354-C of I.P.C. and Section 6 of POCSO Act, on the allegation of committing Gang rape and aggravated penetrative sexual assault upon the victim by tying and confining her in a room on the pretext of creating scene of kidnapping in a video shoot.
3. In the course of hearing of the bail application, learned counsel for the petitioner submits that no doubt offence of Gang rape and aggravated penetrative sexual assault are heinous offences but if the statement of the victim is read with the averments of the FIR and when the same is compared with the medical examination report of

the victim, either the prosecution case is false or the medical examination report is false. It is further submitted that in view of the aforesaid facts, when the medical report does not corroborate the statement of the victim, it would not be proper to detain the petitioner in jail custody, and the petitioner having detained in custody since 28.03.2022 and charge-sheet having already been submitted in this case, there is hardly any chance of tampering of prosecution materials by the petitioner and the petitioner therefore may kindly be enlarged on bail.

4. On contrary, learned counsel for the State by placing the statement of the victim U/S.164 of Cr.P.C. submits that it is a clear case of Gang rape upon the victim by the petitioner and the petitioner therefore should not be enlarged on bail.

5. Learned counsel appearing for the informant by annexing a copy of FIR in Banpur P.S. Case No.453 of 2022 submits that the victim has not only been brutally raped by the petitioner but also he has threatened the family members of the victim by engaging some anti-social elements and in the process, has assaulted the father of the victim by way of strangulating his neck with assistance of his henchmen and the petitioner is also threatening the victim by calling her over phone. It is also submitted by the learned counsel for the informant that the petitioner has also taken some inappropriate photographs of the victim at the time of occurrence and by using such photographs, he has been pressurizing the victim to withdraw the case or otherwise to face the consequence and the petitioner has also threaten to take away the life of the victim. In summing up his arguments, learned counsel for the informant forcefully submits to reject the bail application of the petitioner.

6. Considering the rival submissions advanced on behalf of the

parties and taking into consideration the allegations raised by the victim in her statement as well as the averments of FIR annexed today by the informant and also the statement of the victim indicating about shooting of her nude photographs at the time of occurrence and keeping in view the offence of Gang rape being extremely diabolical affecting the morals of a women is also a crime against society, this Court, therefore, does not considers it proper to enlarge the petitioner on bail.

7. Hence, the prayer for bail of the petitioners stand rejected.
8. Accordingly, the BLAPL stands disposed of.
9. Issue urgent certified copy of the order as per Rules.

Subhasmita

