

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 3563 of 2021

Gobinda Baskey @ Sunil @ Tusil ***Petitioner***
Mr. Sitakanta Hota, Advocate
On behalf of Mr. S. Dwibedi, Advocate

Versus

State of Odisha ***Opposite Party***
Mr. S.S. Pradhan, A.G.A.

CORAM:
JUSTICE SAVITRI RATHO

ORDER
22.02.2022

Order No.

- 08.
1. This matter is taken up through hybrid mode.
 2. Heard Mr. Sitakanta Hota, learned counsel on behalf of Mr. S. Dwibedi, learned counsel for the petitioner and Mr. S.S. Pradhan, learned Addl. Standing Counsel for the State.
 3. This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioner- Gobinda Baskey @ Sunil @ Tusil in connection with Badampahar P.S. Case No.67 of 2020 corresponding to C.T. Case No. 721 of 2020 now pending in the Court of the learned Addl. Sessions Judge, Rairangpur as S.T. No. 9 of 2021 for commission of offence punishable under Sections 376-D/506/34 of the IPC.
 4. The petitioner had moved an application for bail before the Court of learned Addl. Sessions Judge, Rairangpur which was rejected on 31.03.2021.
 5. The prosecution allegations in brief are that on 27.10.2020 at about 7.00 a.m. while the victim was returning from village Dhakata after watching a football match, the petitioner and other accused persons forcibly took her to the nearby bushy area and committed rape on her. She tried to raise alarm, but the accused persons showed her a knife and pressed her neck. It was stated that in the meanwhile one Sundari Hembram noticed her and seeing her the accused persons left the spot.

6. Mr. Sitakanta Hota, learned counsel for the petitioner submits that the petitioner is in custody since 06.11.2020 and the trial is yet to start. He further submits that the petitioner has not been named in the FIR but charge sheet has been filed against the petitioner as the victim lady has named him in the statement recorded under Section 164 of Cr.P.C. He further submits that although the incident allegedly took place on 27.10.2020 but the FIR has been lodged on 03.11.2020, after seven days of the occurrence from which it is apparent that false allegation has been made against the petitioner.

7. Mr. P.K. Mohanty, learned Addl. Standing Counsel opposed the prayer for bail stating that the victim is an illiterate lady and has given her LTI on the FIR which has been drafted by other person but she has named the petitioner in her statement recorded under Section 161 Cr.P.C. as well as in her statement recorded under Section 164 of Cr.P.C.

8. After considering the submissions of the respective counsels, nature of materials collected against the petitioner and the punishment prescribed for the offences alleged against him, I am not inclined to release the petitioner on bail.

9. The BLAPL is accordingly dismissed.

10. However, liberty is granted to the petitioner to move the learned trial Court for bail afresh after examination of the victim lady.

11. As the petitioner is stated to be in custody since more than one year and has not been named in the FIR, I request the learned Addl. Sessions Judge, Rairangpur in S.T. No. 9 of 2021 to expedite the trial and examine the victim lady first.

12. Copy of this order be sent to the learned trial Court.

13. Urgent certified copy of this order be granted on proper application.

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(Savitri Ratho)
Judge