

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4933 of 2022

Kanha Gouda @ Kannha Gouda ***Petitioner***
M/s. U.Barik, Advocate

-versus-

State of Orissa ***Opp. Party***
M/s.S.R.Roul, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

14.11.2022

Order No.

- 03.
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 Badagada P.S. Case No.61 of 2019 corresponding to S.T. Case No.120 of 2019 pending in the Court of learned Additional Sessions Judge, Bhanjanagar for commission of offence punishable U/Ss. 376(2)(n)/323/506/294/451 of the I.P.C. on the allegation of committing rape upon the victim by trespassing into her house and abusing as well as assaulting her and threatened her with dire consequences.
 3. In the course of hearing of the bail application, Mr.U.Barik, learned counsel for the petitioner submits that the petitioner has been detained in judicial custody since last three years but the trial is yet to be concluded since the whereabouts the victim is not known to anybody and the witnesses so far as examined in this case have stated in their deposition that there was a betrothal ceremony for the marriage between the petitioner and the informant-victim but owing to some dispute, the marriage could not be materialized between them. It is also submitted that the petitioner is a law abiding citizen

and he has never misutilised the liberty granted earlier to him in the form of interim bail and the petitioner has surrendered to the custody after availing the interim bail. Learned counsel for the petitioner under aforesaid submissions prays to enlarge the petitioner on bail.

4. Learned counsel for the State, however, opposes the bail application of the petitioner vehemently by inter alia submitting that petitioner cannot be released on bail merely on the ground of his detention in judicial custody since last three years but the allegation against the petitioner is not only serious but also heinous. It is accordingly prayed by learned counsel for the State to reject the bail application of the petitioner.

5. After having considered the rival submissions of the parties upon reference to the record, it appears that the petitioner is inside jail custody since last three years but trial is yet to be concluded and it appears from the rejection order recorded by the learned Court in seisin of the case that the petitioner was earlier on interim bail for 90 days and the allegation against the petitioner is for having sexual intercourse with the victim on false assurance of marriage. It is also stated in the said order that the summons issued against the victim returned back un-served and the victim is not staying in her village as reported by the I.I.C., Badagada P.S. Further, the deposition of some of the witnesses also reveals that the victim had already left the village and her whereabouts is not known.

6. In view of the above facts and taking into consideration the pre-trial detention of the petitioner on the face of non-examination of the victim owing to her absence, this Court considers the bail application of the petitioner leniently.

7. Hence, the prayer for bail of the petitioner is allowed and the

Petitioner be released on bail on furnishing bail bonds of Rs.50,000/- with two solvent sureties each for the like amount to the satisfaction of the learned trial Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall not leave the jurisdiction of the learned trial Court without prior permission till conclusion of the trial and the petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with.

8. Accordingly, the BLAPL stands disposed of.

9. Urgent certified copy of the order be granted on proper application.

Kishore

