

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.5224 of 2022

Jitrai Sumburai @ Tatu

.... ***Petitioner***
Mr.S.S.Dash, Advocate

Versus

State of Odisha

.... ***Opp. Party***
Mr.S.S.Pradhan, AGA

CORAM:

JUSTICE SAVITRI RATHO

ORDER

28.07.2022

Order No.

04.

This matter is taken up by hybrid mode.

2. Heard Mr.S.S.Dash, learned counsel for the petitioner and Mr. S.S.Pradhan, learned Addl. Government Advocate for the State.

3. This application under Section 439 of Cr.P.C. has been filed by the accused-petitioner who is facing trial in S.T. Case No.07/111 of 2021-19 pending in the Court of learned Assistant Sessions Judge, Udala arising out of Sarat P.S. Case No.10 of 2019 corresponding to G.R. Case No.145 of 2019 for commission of offence under Sections 376 (1)/506/457 of I.P.C.

4. This is the 3rd journey of the petitioner to this Court. His earlier application, i.e., BLAPL No.37 of 2020 had been rejected by this Court vide order dated 25.09.2020. BLAPL No.9065 of 2021 had also been rejected by this Court vide order dated 03.01.2022 granting liberty to the petitioner to move for bail afresh in case there is undue delay in completion of the trial. On the said

date, four out of 26 witnesses had been examined during trial, which included the victim, her husband and her daughter. Thereafter, nine witnesses have been examined and 13 witnesses are yet to be examined.

5. The allegations against the petitioner in brief is that on the night of 28.04.2019, the petitioner, who is the uncle-in-law of the victim, trespassed into the house of the victim in absence of her husband and committed rape on her at the point of knife and threatened to murder her. The victim disclosed the incident to her husband on the next day and a meeting was called in the village on 01.05.2019, but nothing could be settled. So, the victim lodged the F.I.R. on 2.5.2019.

6. Learned counsel for the petitioner submits that the petitioner is in custody since 04.05.2019 and no sign or symptom of rape has been found on the victim. On account of property dispute, the petitioner has been falsely implicated in this case. He further submits that 13 out of 26 witnesses have been examined in the meanwhile and the main witnesses, namely, the victim, her husband and her daughter have been examined and no useful purpose will be served by detaining the petitioner in custody further which amounts to pre-trial punishment.

7. Perused the deposition of the victim and the witnesses recorded during trial.

8. Although I am not inclined to allow the petition for regular bail, but considering the fact that the petitioner is in custody since more than three years and out of 26 witnesses, only 13 witnesses have been examined, I deem it proper to release the petitioner on interim bail for a period of three months in connection with S.T.

Case No.07/111 of 2021-19 pending in the Court of learned Assistant Sessions Judge, Udala on such terms and conditions as the learned court below may deem fit and proper including the following conditions:

(i) He shall not indulge in any criminal activity while on bail.

(ii) He shall not try to tamper with evidence or influence prosecution witnesses and will not go near the house of the victim.

(iii) He will appear on each date of the trial.

Violation of any condition will entail in cancellation of interim bail.

9. It is made clear that immediately after expiry of the interim bail, the petitioner shall surrender before the learned trial court. The learned trial court is also directed to make all endeavour to complete the trial within a period of four months.

10. The BLAPL is accordingly disposed of.

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

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(Savitri Ratho)
Judge