

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5307 of 2022

Chandrakanta Majhi **Petitioner**

Mr. Devashis Panda, Advocate

-versus-

State of Odisha **Opp. Party**

*Mrs. Susamarani Sahoo,
Addl. Standing Counsel*

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

**ORDER
03.11.2022**

Order No.

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

Learned counsel for the State submitted that notice on the informant has been made sufficient.

None appears for the informant.

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

This is an application under section 439 of Cr.P.C. in connection with Banpur P.S. Case No.369 of 2020 corresponding to T.R. Case No. 464 of 2020 pending in the Court of learned 4th Addl. Sessions Judge, Bhubaneswar for offences punishable under sections 363, 366, 376(2)(n), 376(3), 323 and 506 of the Indian Penal Code and section 6 of the POCSO

Act.

The petitioner moved an application for bail before the Court of Special Judge (POCSO) -cum- Addl. Sessions Judge, Bhubaneswar, which was rejected on 10.05.2022.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 02.12.2020 and in the meantime charge sheet has already been submitted under sections 363, 366, 376(2)(n), 376(3), 323 and 506 of the Indian Penal Code and section 6 of the POCSO Act. Learned counsel further submitted that the petitioner's earlier bail application in BLAPL No. 1304 of 2021 was rejected as per order dated 15.09.2021 relying on the 164 Cr.P.C. statement of the victim and liberty was granted to the petitioner to renew his prayer for bail after examination of the victim in the learned trial Court. Learned counsel further submitted that the victim has already been examined as P.W.1 in the learned trial Court and she has stated that her date of birth is 12.09.2004, which means she has already completed sixteen years of age at the time of occurrence, which allegedly took place on 28.11.2020. It is further submitted that the victim is now married and she neither raised any hullah nor told the employees of the petrol pump and she accompanied the petitioner in his motor cycle during night. It is further submitted

that the medical evidence does not corroborate the evidence of forcible sexual intercourse with the victim and therefore, the bail application may be favourably reconsidered.

Learned counsel for the State on perusal of the charge sheet submitted that there are twenty charge sheet witnesses as per the charge sheet and two witnesses i.e. the victim and the informant have been examined as P.W.1 and P.W.2 respectively.

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced during trial and taking into account the period of detention of the petitioner in judicial, I am inclined to reconsider the prayer for bail and direct the petitioner to be released on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper including the conditions that the petitioner shall not keep any contact with the victim or any of the prosecution witnesses, shall appear before the learned trial Court on each date to which the case is posted for trial and shall not try to tamper with the prosecution evidence. Violation of any of the

conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

PKSahoo

