

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 5958 of 2022

Abhimanyu Padhiary* *Petitioner

Mr.R.K. Ray, Advocate

-versus-

State of Odisha* *Opp. Party

*Mr.Rajesh Tripathy,
Addl. Standing Counsel*

CORAM:

JUSTICE S.K. SAHOO

Order No.

ORDER

02.09.2022

07. This matter is taken up through Hybrid arrangement (video conferencing/physical Mode).

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

Learned counsel for the State submitted that the notice on the informant is sufficient.

None appears on behalf of the informant.

This is an application for bail under section 439 of Cr.P.C. in connection with Cuttack Sadar P.S. Case No.551 of 2020 corresponding to Special G.R. Case No. 98 of 2020 pending in the file of learned Addl. Sessions Judge -cum- Special Court (POCSO), Cuttack for alleged commission of offences under sections 376 (A) and (B), 354, 354(A), 354(B), 294, 506, 34 of the

Indian Penal Code read with section 4 of sexual offence act and sections 6, 10, and 12 of the POCSO Act.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 18.10.2020 and when the petitioner last time approached this Court for bail in BLAPL No. 8942 of 2020, this Court as per order dated 31.03.2021, while rejecting the bail application directed the learned trial Court to expedite the trial and take steps for examination of the victim at the first instance and liberty was granted to the petitioner to renew the prayer for bail after examination of the victim in the learned trial Court. Learned counsel for the petitioner submitted that the victim has already been examined in the learned trial Court and at this stage, there is no chance of tampering with the evidence and therefore, the bail application of the petitioner may be favourably reconsidered.

Learned counsel for the State after going through the evidence of the victim (P.W.1) submitted that the victim has supported the prosecution case and implicated the petitioner specifically in the commission of rape and therefore, he should not be released on bail.

Learned counsel for the petitioner on the other hand, submitted that there are contradictions in the

evidence of the victim and therefore, the victim cannot be said to be a reliable witness.

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced by the victim in the trial Court and her age at the time of the occurrence and whether in view of the contradictions in the victim's evidence, the same would be acceptable or not, it would be in the domain of the learned trial Court at the appropriate stage, while not inclining to release the petitioner on bail, I direct the learned trial Court to expedite the trial.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(**S.K. Sahoo**)
Judge

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