

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5089 of 2021

Akshay Ojha

.... Petitioner

Mr.Lalitendu Mishra, Advocate

-versus-

State of Odisha

.... Opposite Party

Mr.S.S.Mohapatra, ASC

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

20.1.2022

Order No.

- 12.
1. This matter is taken up by video conferencing mode.
 2. Heard Mr.Mishra, learned counsel for the Petitioner and Mr.Mohapatra, learned Additional Standing Counsel for the State.
 3. As per the certified copy of the order dated 3.1.2022 placed at flag-A, the Petitioner has surrendered before the learned trial court on the said date.
 4. This is an application under Section 439 Cr.P.C. for grant of bail to the Petitioner in connection with G.R.Case No.310 of 2021 arising out of Barbil P.S.Case No.94 of 2021 pending in the court of the learned J.M.F.C., Barbil for alleged commission of offence under Sections 376(D)/394 of the I.P.C.
 5. It is submitted that the Petitioner is inside custody since 7.6.2021 barring the periods when he was released on interim bail. It is further submitted that in the meantime ten witnesses have been examined in course of trial and all the independent

witnesses including the victim (P.W.9) and the scribe (P.W.10) of the F.I.R. have not supported the prosecution case. It is also submitted that the victim has refused for her medical examination which is admitted by her in course of her examination as well as by the Doctor (P.W.7). The certified copies of depositions of P.Ws.1 to 10 as filed by the Petitioner are kept on record.

6. Upon hearing Mr.Mohapatra, learned Additional Standing Counsel for the State and perusal of copies of the depositions of P.Ws.1 to 10, it reveals that the victim has been examined as P.W.9 and she has not supported the prosecution case. Even she has denied to identify the accused persons. The relevant portion of her examination-in-chief is reproduced below:

“1. I am the victim-informant of the case. I do not know the accused persons standing in the dock.

2. About six months back I was called by police to P.S. there the police insisted me to sign on a written paper, so I signed. This is my said signature marked as Ext.11. Police sent me to medical but I refused to be examined. Police also took me to Barbil Court and produced me before Magistrate, who recorded my statement. I gave my statement at the instruction of police and signed on a paper. This is my signatures marked as Ext.12 and Ext.12/1. Police took me to the Barbil jail and obtained my signature on a form. This is my signature marked as Ext.13.”

7. Considering the statement of the witnesses so far examined in course of trial, particularly the evidence of P.W.9, it is directed that the Petitioner be released on bail in the aforesaid case on such terms and conditions to be fixed by the learned

court below in seisin over the matter including the condition that he shall attend the trial court on each date fixed.

8. The BLAPL is disposed of.

9. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020, modified by Notice No.4798, dated 15th April,2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January,2022.

(B.P. Routray)
Judge

CRBiswal