

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5317 of 2021

Benudhar Bhola

.... ***Petitioner***
M/s.T.Panigrahi, Advocate

-versus-

State of Orissa

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

CORAM:

JUSTICE G. SATAPATHY

ORDER

22.09.2022

Order No.

- 04.
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 Gop P.S. Case No.130 of 2021 corresponding to Special G.R. Case No.48 of 2021 and thereafter turned to T.R. Case No. 67 of 2021 pending in the Court of learned Addl. District Judge-cum-Special Court under POCSO Act, Puri for commission of offence punishable U/Ss. 376(AB) of I.P.C. read with Section 6 of the POCSO Act on the allegation of committing rape and aggravated penetrative sexual assault upon the victim aged about seven years.
 3. In the course of hearing of the bail application, learned counsel for the petitioner submits that there is delay in lodging of the F.I.R. and the petitioner has already been detained in custody for more than one year and in the meantime, two to three witnesses have already been examined in this case. He further submits that the petitioner has been falsely implicated in this case and the materials on record do not disclose commission of any offence against the petitioner. Learned counsel for the petitioner on these grounds prays to enlarge the petitioner on bail.
 4. On contrary, learned counsel for the State by placing the statement of the victim U/S. 164 of Cr.P.C. submits that the age of the victim is seven years and the allegation against the petitioner is not only serious but

also diabolical and the petitioner does not deserve to be released on bail.

5. After going through the allegations on record upon hearing the parties, there appears allegation against the petitioner for offences punishable U/Ss. 376(AB) of I.P.C. and Section 6 of the POCSO Act and the age of the victim as revealed from her statement U/S. 164 of Cr.P.C. to be seven years and now the trial has already commenced and there is reasonable apprehension about tampering of witnesses by the petitioner in case of his release on bail.

6. Considering the nature and gravity of offence, especially the nature of allegations levelled against the petitioner and taking into consideration the allegation against the petitioner as stated by the victim in her statement U/S.164 Cr.P.C. coupled with facts as narrated in the preceding paragraph, this Court considers it undesirable to release the petitioner on bail. Accordingly, the prayer for bail of the petitioner stands rejected.

7. Accordingly, the BLAPL stands disposed of. ★

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

(*G. Satapathy*)
Judge

Kishore