

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO. 6478 of 2022

Biranchi Sahu & Anr.

....

Petitioners

Mr.Satrughna Dash, Adv

-versus-

State of Odisha

...

.Opposite Party

Mr.Saswat Das, AGA

CORAM:

JUSTICE S.K. PANIGRAHI

Order

No.

ORDER

26.08.2022

- 02.
1. This matter is taken up by hybrid mode.
 2. Heard learned counsel for the petitioners and learned counsel for the State.
 3. The petitioners being in custody in Mananpur-Rampur P.S. Case No.157 corresponding to C.T. Case No.74 of 2019 pending in the Court learned Addl. Sessions Judge-cum-Special Court under POCSO Act, Bhawanipatna for the alleged commission of offence under Sections 366/376-DA/394 of IPC read with Section 6 of the POCSO Act, 2012 have filed this application for their release on bail.
 4. It is alleged in the F.I.R. that on 13.10.2019, at about 7 P.M. while the victim was going towards Chari Chhak of her village to attend call of nature, the petitioners forcibly took away the victim on their motor cycle to nearby forest, committed rape and took her gold ear rings. Thereafter, based on the allegation of the

informant, the case was registered and investigation was taken up for the alleged offences.

5. Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case due to previous enmity. The medical report also does not reveal any recent sexual assault on the victim. From the X-ray finding, the approximate age of the prosecutrix was about 18-19 years as per ossification test. Further, the petitioners have no criminal antecedents. No witnesses have uttered a single incriminating words against the petitioners. One co-accused who is similarly situated with the petitioners, has already been enlarged on bail by order of this Court vide order dated 30.06.2022 in BLAPL No.5391 of 2021. They have been languishing in custody since 15.10.2019.

6. Learned counsel for the State though vehemently opposes the prayer for bail of the petitioners but concedes the detention of the petitioners in custody for more than two years as well as the factum of release of co-accused who is similarly situated with the petitioners.

7. Considering the facts and circumstances of the case as well as length of detention of the petitioners in custody and also taking into account of release of similarly situated co-accused, it is directed that the petitioners be released on bail in the aforesaid case with some stringent terms and conditions as deemed just and proper by the learned court in seisin over the matter with further conditions that:-

- i. the petitioners shall appear before the learned trial court on each date of posting of the case;
- ii. they shall not indulge themselves in any criminal offence while on bail and
- iii they shall not tamper the evidence of the prosecution evidence in any manner.¹²

8. Violation of any of the conditions shall entail cancellation of the bail.

9. The BLAPL is accordingly disposed of.

10. Issue urgent certified copy as per Rules.



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