

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6953 of 2022

Gurucharan Sahu

....

Petitioner

Mr. G. Sahu, Advocate

-versus-

State of Orissa

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

16.12.2022

Order No.

03.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is an accused in connection with Spl. G.R. Case No.01 of 2020 (Spl. C.T. Case No.01/2020), pending in the Court of the learned Additional Sessions Judge-cum-Special Judge, Deogarh, arising out of Deogarh P.S. Case No.09 of 2020, for alleged commission of offences under Section 376-A of IPC read with Section 6 of POCSO Act.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge-cum-Special Judge, Deogarh, by order dated 11.07.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted by the learned counsel that the petitioner is in custody since 16.01.2020 and since there is no progress in trial, his further continuance in custody is unwarranted.
5. Learned counsel for the State opposes the prayer for bail.

6. At the outset, it is apt to state that the victim is a child aged about 4 years.

7. Learned counsel for the petitioner relies on the statement of one Milan, who was playing along with the victim, who has been cited as charge-sheeted witness no.10. He submits that on a perusal of the statement of petitioner's friend, who was present at the alleged spot, the allegation of the petitioner taking the victim along with him is belied.

8. Learned counsel for the petitioner also relies on the statement of Prakash an independent charge-sheeted witness No.9 for the fact that on the date of the alleged occurrence, in the evening, the victim is stated to have gone for tuition to the house of the said Prakash. And, relying on the said statement, it is submitted that it is highly improbable that after such occurrence, the victim will go the house of another that too for tuition.

9. Learned counsel has further relied on the statement of the charge-sheeted witness No.7- grandmother of the victim and also the mother- charge-sheeted witness No.3 of the victim to state that there are materials on record to show that the petitioner had never called the victim and taken her inside as alleged.

10. This Court perused the statement of the victim, in which she has categorically narrated about the incident and when the matter is pending consideration before the learned trial Court, it is neither advisable nor desirable to make a microscopic examination of the materials on record. Since prima facie case is well made out against the petitioner, this Court is **not inclined** to entertain this bail application.

11. Since the petitioner is in custody from 16.01.2020 and he is aged about 55 years, learned court in seisin is called upon to

conclude the trial within a period of four months from the date of receipt/production of the copy of this order, as it is stated in the communication by the (In-charge) learned Additional District & Sessions Judge, Deogarh that out of 24 witnesses 3 were examined till 05.04.2022.

12. The petitioner is at liberty to renew his prayer before the learned Court in seisin, in the event trial is not concluded within the time stipulated, which shall be considered on its own merits without being influenced by the earlier order or orders passed by this Court.

13. Accordingly, the BLAPL stands disposed of.

Ayesha

(V. NARASINGH)
Judge

