

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6096 of 2021

Bilasa Sahu

.... ***Petitioner***
Mr.D.R.Bhokta, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. K.K.Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

04.03.2022

Order No.

03.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as the learned Additional Standing Counsel for the State.
3. Perused the F.I.R., Case Diary as well as the statements of the witnesses recorded during the course of investigation.
4. Despite valid service of notice, none appears for the informant.
5. This is an application under Section 439 of the Criminal Procedure Code filed by the Petitioner to release him on regular bail in connection with C.T.Case No.19 of 2021 pending in the Court of the learned Additional Sessions Judge-cum-Special Court under POCSO Act, Bhawanipatna, which arises out of Narla P.S.Case No.44 of 2021 for commission of the alleged offences under Sections 363,376(3)/376(2)(n)/417 of the Indian Penal Code read with section 6 of the POCSO Act..
6. The Prosecution case, as revealed from the F.I.R., in short is that on 27.02.2021 at about 5 P.M. the Petitioner came to the house of the

victim in absence of her parents and persuaded and taken her on his bike to visit a nearest Siva Temple. It is also alleged that at that time some people saw them in a suspicious manner and informed the said fact to the father of the victim, who thereafter came to the spot and rescued his daughter. The victim told the informant that earlier on many occasions the Petitioner called her to the nearest field and kept physical relationship with her.

7. It is submitted by the learned counsel for the Petitioner that the Petitioner is in custody since 01.03.2021 and investigation of the case has been concluded and charge sheet has been filed. Learned counsel for the Petitioner further submits that as per the medical report, there is no sign of any injury or sign of any recent sexual intercourse. Further, it is submitted by the learned counsel for the Petitioner that the Doctor upon medical examination is of the opinion that the victim is aged about 16 to 17 years. Referring to the statement of the victim recorded under section 164 Cr.P.C. learned counsel for the Petitioner submits that no case under section 376 of the Indian Penal Code is made out as the victim herself has admitted that the allegation is false. He further submits that the Petitioner is a man of locality. Therefore, there is no chance of his absconding and in the event the Petitioner is released on bail he shall abide by any terms and conditions that may be imposed by this Court.

8. On the other hand, learned counsel for the State submits that the allegations made in the F.I.R. are heinous in nature. Therefore, the Petitioner does not deserve any leniency for consideration of his bail application. Moreover, learned counsel appearing for the State apprehends that if the Petitioner is released on bail, he may not cooperate with the trial and he may abscond. Therefore, learned Additional Standing counsel opposes the prayer for bail of the Petitioner.

9. Having heard learned counsel for the parties and considering the custodial detention of the Petitioner as well as the facts and circumstances of the case, this court is inclined to grant bail to the Petitioner and it is directed that let the Petitioner be released on bail in the aforesaid case on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions

- i) he shall cooperate with the trial and appear before the Court on each and every date.
- ii) shall not tamper with the evidence and shall not threaten or gain over any prosecution witnesses.
- iii) shall not influence, contact and approach the victim girl in any manner whatsoever.
- iv) Violation of any of the terms and conditions shall entail cancellation of bail.

10. With the aforesaid observation the BLAPL stands disposed of.

11. 10. Urgent certified copy of this order be granted on proper application.

RKS

(*A.K. Mohapatra*)
Judge