

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6160 of 2021

Maheswar Kisan

....

Petitioner

Mr. A.K. Sahoo, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Swain, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

10.03.2022

Order No.

05. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Deogarh P.S. Case No.131 of 2021, corresponding to Spl. C.T. Case No.15 of 2021, pending in the file of learned Addl. Sessions Judge-cum-Special Judge, Deogarh, for commission of alleged offences under Sections 341/294/323/376(1)/417/506/427/354-A(2)/34 of I.P.C. r/w. Sections 4 & 12 of POCSO Act.
3. Heard learned counsel for both the parties. Perused the Case Diary, FIR and statement of the victim girl recorded under Section 164 Cr.P.C.
4. Learned counsel for the Petitioner submits Petitioner is languishing in jail custody since the date of his arrest, i.e. 19.05.2021. It is submitted that police after completion of investigation has filed Charge-Sheet. It is further submitted that the

victim girl is more than 17 years. This fact has been admitted in the 164 statement and in fact the proposal for marriage to the accused Petitioner did not materialize due to objection from the family members of the Petitioner, Petitioner has been falsely implicated in the present case. He further submits that the medical examination report of the victim girl also does not support the statement made by the victim girl. It is also stated that as Petitioner is a local resident, there is no chance of absconding the process of law in the event release on bail.

5. Learned counsel for the State vehemently objects the prayer for bail of the Petitioner. Learned counsel for the State submits that the allegation made in the FIR and the 164 statement are very serious in nature and prays that the prayer for bail may be rejected

6. On perusal of the 164 statement of the victim girl it is seen that the victim girl has admitted that she was in love relationship with the Petitioner for about 3 years and the victim girl had also visited the house of the Petitioner quite often. From the medical examination report, it reveals that there is neither any sign or symptom of sexual intercourse nor any injury on her body.

7. Having regard to the facts and circumstances of the case, considering the nature and gravity of offences alleged and the period of detention of the Petitioner, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one local sureties for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions :

- i) He shall not involve himself in any similar nature of offence;
- (ii) He shall appear before the trial court on each and every date as fixed by the court;
- (iii) He shall appear before the I.O. on every Sunday at 10 A.M. to 1.00 P.M. and report to the police;
- (iv) He shall not tamper with the prosecution evidence;
- (v) He shall not influence or threaten any prosecution witness and cooperate in the investigation;
- (vi) He shall not contact or try to reach out the victim girl in any manner;
- (vii) He shall provide his present address and mobile number to the I.O. and if any changes therein shall also be intimated to the I.O.;
- (viii) Violation of any of the above conditions shall entail cancellation of the bail.

8. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioner and impose any additional condition(s), if situation so warrants. This order shall remain valid in the event the court in seisin of the matter is satisfied that Petitioner has no criminal antecedents.

9. With the above direction, the BLAPL is accordingly allowed.

10. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge