

IN THE HIGH COURT OF ORISSA AT CUTTACK
TRP (CRL) No.56 of 2022

Gobind Moharana

.... **Petitioner**
Mr.S.S.Pattnaik, Advocate

Versus

1.State of Odisha
2.Renubala Samal

.... **Opp. Parties**
Mr.S.S.Pradhan, AGA
(for O.P.1)

CORAM:
JUSTICE SAVITRI RATHO

ORDER
23.08.2022

Order No.

02. This matter is taken up by hybrid mode.
2. Heard Mr.S.S.Pattnaik, learned counsel for the petitioner. This application has been filed under Section 407 of Cr.P.C. by the petitioner who is the accused in G.R. Case No.84 of 2020 (arising out of Kendrapara P.S. Case No.166 of 2020) pending in the file of learned Special Judge-cum-Additional Sessions Judge, Kendrapara for commission of offences under Sections 376 (AB)/506 of I.P.C. read with Section 6 of the POCSO Act, for its transfer to any other Court having identical jurisdiction.
3. On 01.08.2022, considering the submission of learned counsel for the petitioner that the F.I.R. had been lodged by a practicing advocate of Kendrapara who had applied to the President of Kendrapara District Court Bar Association requesting the Members of the Bar Association to refrain from representing the petitioner and moving his bail application as the victim was her niece for which a resolution has been passed by the District Court Bar Association not to represent the petitioner or move his bail application for which he remained unrepresented before the Court and is continuing in custody, a report had been called for from the

learned District and Sessions Judge-cum-Special Judge, Kendrapara.

4. Report dated 16.08.2022 of the learned District and Sessions Judge, Kendrapara has been received. It has been stated therein as follows:-

“The Petitioner is an accused for offence U/s. 376 (AB)/506 of IPC r/w. Sec.6 of the POSCO Act. The record further shows that the FIR was lodged by Renubala Samal on 17.10.2020. The accused was arrested and forwarded to the court of Ld. Addl. Sessions Judge-cum-Special Court, Kendrapara on 20.10.2020. The accused was represented through Remand Advocate Sri M.Swain. Bail application for the accused was moved and was rejected on 06.11.2020. On 31.05.2021 Advocate Sri Debasnan Das and his associates appeared on behalf of the accused and filed Vakalatnama. Another bail application was rejected on 07.06.2021. The petitioner was released on interim bail on 07.02.2022 on the strength of the order of Hon’ble Court passed in I.A. No.54/2022 arising out of BLAPL No.96 of 2021. The accused surrendered on 23.02.2022. Cognizance was taken on 09.12.2020. The record is transferred to the file of Addl. District Judge-cum-FTSC POSCO on 27.04.2022. Charge was already been framed on 22.07.2022. Record does not disclose any resolution of Bar regarding non-representation of Lawyer. Record shows that remand Lawyer was appearing for the accused and on 31.05.2021 Advocate Sri Debasnan Das and others appeared on behalf of the petitioner.

The matter may be placed before the Hon’ble Court for kind perusal.”

5. In view of the aforesaid report and in view of the fact that the petitioner was represented by an Advocate when he was remanded and Advocate Mr. Debasnan Das and associates have appeared on his behalf on 31.5.2021 after which his prayer for bail was moved and rejected on 07.06.2021, he was released on interim bail for a few days pursuant to order of this Court in BLAPL No.96 of 2021 and charge has been framed against the petitioner on 22.07.2022 after the record was transferred to the file of the learned Addl. District Judge-cum-FTSC POSCO on 27.04.2022, I am not convinced that there will be any obstruction for a fair trial if the trial continues in Kendrapara. I am

therefore not inclined to allow this application for transfer of the trial outside Kendrapara.

6. The TRP (CRL) is accordingly dismissed.
7. Urgent certified copy of this order be granted as per rules.

.....
Savitri Ratho
Judge

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