

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.344 of 2022

Dusmanta Bachha

....

Petitioner

Mr. Bhojaraj Seth, Advocate

-versus-

***State of Odisha and
another***

....

Opposite Parties

*Mr. Manoranjan Mishra,
Addl. Standing Counsel*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
06.09.2022**

Order No.

03.

This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard the learned counsel for the petitioner and the learned counsel for the State.

This revision petition has been filed by the petitioner under Section 401 of Cr.P.C. read with Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred as "J.J. Act") challenging the order dated 4th July, 2022 passed by the learned 1st Additional Sessions Judge -cum- P.O. Children's Court, Balangir in Criminal Appeal No.18 of 2022 rejecting his bail application in connection with J.C. No.23 of 2022,

arising out of Titilagarh P.S. Case No.139 of 2022 pending before the learned Principal Magistrate, Juvenile Justice Board, Balangir for the alleged commission of offence punishable under Sections 376(2)(n)/294/506 of I.P.C. and under Section 6 of the POCSO Act.

It appears that there was love affairs between the petitioner and the victim and they kept physical relationship with each other on number of occasions as assurance of marriage was given by the petitioner after both of them attended majority.

Learned counsel for the petitioner submits that the petitioner is detained in observation home since 17th May 2022. He further submits that the medical examination report does not corroborate the commission of rape on the victim and keeping in view the provision under Section 12 of the J.J. Act, the bail application of the petitioner may be favourably considered.

Learned counsel for the State has produced the case diary including the statement of the victim recorded under Section 164 of Cr.P.C. as well as the medical examination report. He further submits that he has not received the social investigation report.

On going through the case diary, it reveals that the social investigation report has already been

prepared since 16th May, 2022.

This matter was taken up on 16th August, 2022. On that date, direction was given to the learned counsel for the State to produce the social investigation report. The matter again was listed on 30th August, 2022, again the same thing was directed. Therefore, no further time can be granted to the learned counsel for the State to produce the social investigation report.

Considering the submissions of the learned counsel for the respective parties, the nature of accusation against the petitioner, young age of the petitioner and that he has no criminal antecedent and also his period of detention, so also absence of any clinching material on record to show that the release of the petitioner is likely to bring him into association with any known criminal or be exposed to moral, physical or psychological danger or that his release would defeat the ends of justice, I am inclined to release the petitioner on bail.

Let the petitioner be released on bail in the aforesaid case on such terms and conditions as the learned Board in seisin over the matter may deem just and proper with further conditions that:-

- (i) one surety should be the family member of the petitioner,

- (ii) his parents/guardians/close family members shall furnish an undertaking that the petitioner shall not be allowed to come in contact with any unsocial and criminal association and shall not be exposed to any moral, physical or psychological danger and further they shall ensure that the petitioner is not indulged in any criminal activities and they shall further ensure the presence of the petitioner during inquiry before the Board as and when required,
- (iii) the District Probation Officer shall keep a close vigilance on the activities of the petitioner while on bail and regularly draw his social investigation report which shall be submitted to the Board on periodical basis as the Board chooses.

Accordingly, the CRLREV is allowed and the impugned order dated 4th July, 2022 passed by the learned 1st Additional Sessions Judge -cum- P.O. Children's Court, Balangir in Criminal Appeal No.18 of 2022 is hereby set aside.

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

A free copy of this order be handed over to the

learned counsel for the State which is to be forwarded to the District Probation Officer, Balangir for compliance.

(S.K. Sahoo)
Judge

DA

