

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6779 of 2021

Bapi @ Umakanta Giri

....

Petitioner

Mr. Asok Mohanty, Sr. 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.

I.A. No.75 of 2022

- 05.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. An oral prayer is being made by Mr. Asok Mohanty, learned Senior Counsel for the Petitioner that he does not want to press the I.A. of the Petitioner. Accordingly, the I.A. stands disposed of as not pressed.

(A.K. Mohapatra)
Judge

BLAPL No.6779 of 2021

- 06.
3. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the F.I.R., case diary, the statement of the witnesses and other relevant documents on record.
 4. This is an application under Section 439 of the Criminal Procedure Code.

5. The Petitioner is an accused in C.T. No.528 of 2021 arising out of Jaleswar P.S. No.225 of 2021 pending in the court of learned J.M.F.C., Jaleswar for commission of offence punishable under Sections 376(20(n)/292/506, I.P.C. read with Sections 66-E and 67-A of the Information Technology Act.

6. The brief fact of the case of the informant is that her husband was staying at Bhubaneswar and working there. Ten to eleven months ago, after taking dinner, while she closed the door of her house, in the meantime, the Petitioner, who was hiding under the bed suddenly emerged holding with a bhujali and forcibly made her naked. Then the Petitioner threatened to kill her son, if she will not agree with his proposal. After that the Petitioner put her on the bed and took her naked photographs in his mobile and sent the said naked photographs to her mobile. Then the Petitioner forced her to keep illicit relationship with him and was making video calls to her. Thereafter, the Petitioner threatened to send her naked photographs to her husband, if she does not keep illicit relationship with him. Finding no other way, she kept sexual relationship with him repeatedly.

7. Learned Senior Counsel for the Petitioner submits that the Petitioner is in custody since 03.07.2021 and in the meantime, investigation has been concluded and charge-sheet has already been submitted by the I.O. He further submits that the occurrence took place 10 to 11 months before lodging of the F.I.R. Further, he submits that the victim is a married lady having two kids. Pursuant to direction of this Court, learned counsel for the State has obtained instructions and submitted that the victim is living happily with her family.

8. Learned Senior Counsel for the Petitioner further submits that

as per allegations made in the F.I.R. is false and frivolous and the allegations made in the F.I.R. does not tally with the statement of the victim recorded under Section 164, Cr.P.C. Further, learned counsel for the Petitioner submits that there is no scope for absconding or fleeing away from the hands of the justice, as the Petitioner is a permanent resident of the locality.

8. Mr. Nayak, learned Additional Standing Counsel for the State, vehemently, opposes the prayer for bail of the Petitioner on the ground that the alleged crime is heinous in nature. Therefore, he prays for rejection of the bail application of the Petitioner. He also submits that in the event the Petitioner released on bail, he might threaten / influence the prosecution witnesses particularly the victim. Further, he submits that in the event this Court is inclined to release the Petitioner on bail, some stringent terms and conditions may be imposed.

9. Having heard the learned counsels for the parties, considering the nature of allegation, statement of victim recorded under Section 164, Cr.P.C. and the period of custodial detention of the Petitioner, it is directed that let the Petitioner be released on bail on furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) with two local solvent sureties for the like amount to the satisfaction of the learned court in seisin over the matter subject to conditions that :-

- I. The Petitioner shall not be involved in any offence of similar nature;
- II. He shall not tamper with the prosecution evidence or make any attempt to threaten or influence the witnesses especially the victim or her family members in any manner whatsoever;

III. He shall not make any default in attending the court during trial on each date. He shall not leave the jurisdiction of the Court in seisin over the matter and shall furnish his address and mobile number to the police from time to time; and

IV. He shall not make any attempt to contact the victim and shall stay away from the victim and her family members.

Violation of any of the terms and conditions shall entail cancellation of bail.

10. It is open for the court in seisin over the matter to impose other conditions may deem just and proper.

11. The Bail Application is accordingly disposed of.

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

