

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7037 of 2021

Raja @ Suresh Ch. Behera

..... Petitioner
Mr.S.K.Dwibedi, Advocate

-versus-

State of Odisha & another

..... Opposite Parties
Mr. K.K.Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

11.05.2022

Order No.

06.

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. 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 Baisinga P.S. Case No.44 of 2020 corresponding to C.T.Case No.36 of 2020 pending in the Court of the learned Presiding Officer, Special Court under POCSO Act, Mayurbhanj, Baripada for commission of an alleged offence under Sections 363, 366, 376(2)(n), 376(3), 294, 506/34 of the Indian Penal Code read with Section 6/12 of the POCSO Act and Sections 3(1)(r)(s)(w)(i)/3(2)(v)(va) of the S.C. & S.T.(PoA) Act.
4. The Prosecution case as revealed from the F.I.R. in short is that on 09.03.2020 the informant lodged a written report before the I.I.C. of Baisinga P.S. alleging therein that her daughter is aged about 17 years. While she was at the age of 15 years and was prosecuting her study at

Class VIII the Petitioner at the time of Bahuda festival of the year 2018 took her to different places and kept physical relationship with her and threatened to kill her and to make viral of her naked photographs.

5. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in custody since 13.08.2020 and the Investigating Agency after completion of investigation submitted charge sheet in the case. It is also submitted by the learned counsel for the Petitioner that the victim and the Petitioner had love relationship and on consent they fled away from the village and were staying at Hariyana and thereafter at Tamilnadu for about three years. On their return, they stayed in the village as husband and wife for some days together. Relying upon the statements of some of the co-villagers, learned counsel for the Petitioner submits that co-villagers have stated before the Police that they have seen the victim and the Petitioner staying in the village as husband and wife. It is further submitted by the learned counsel for the Petitioner that since the family of the Petitioner did not accept the victim as daughter-in-law, the dispute arose, as a result of which the present case has been initiated implicating the present Petitioner. Learned counsel for the Petitioner submits that since the Petitioner is a permanent resident of the locality there is no chance of his absconding or fleeing away from the hands of justice. Further he submits that in the event this Court releases the Petitioner on bail, he will appear before the trial court and cooperate with the trial and shall abide by the terms and conditions that would be fixed by this Court.

6. Learned counsel for the State on the other hand opposes the prayer for bail and submits that the allegations made in the F.I.R. are serious in nature. Further the victim was a minor girl at the time of occurrence. However, he does not dispute the fact that they were staying together as has been stated by the co-villagers in their

statements before the Police. It is further submitted by the learned State Counsel that even though there is consent of both the Petitioner and the victim, considering the age of the victim the same cannot be accepted as a legal and valid evidence. Therefore, he urges for rejection of the bail application of the Petitioner.

7. Having heard learned counsel for the parties and taking into consideration the surrounding facts and the materials on record and the period of custodial detention of the Petitioner and the statements of the co-villagers, 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.30,000/- (Rupees Thirty thousand) with two local solvent sureties each 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 appear before the concerned Police Station once in a week preferably on Sunday between 10 A.M. to 1 P.M. till conclusion of trial.
- ii) shall cooperate with the trial of the case and shall appear in trial court on each and every date to which the case is posted.
- iii) shall not indulge in any offence of similar nature.
- iv) shall not tamper with the prosecution evidence while on bail.
- v) shall not influence or threaten any prosecution evidence while on bail.
- vi) Violation of any of the terms and conditions shall entail cancellation of bail.

8. The Bail Application is accordingly disposed of.

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

