

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7058 of 2021

Dibakar Kalundia

.... ***Petitioner***
Mr. A. Mishra, 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.

- 03.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the F.I.R., case diary, the statement of the victim recorded under Sections 161 as well as 164, Cr.P.C. and other relevant documents on record.
 3. This is an application under Section 439 of the Criminal Procedure Code.
 4. The Petitioner is an accused in C.T. Special (POCSO) No.90 of 2021 arising out of Kalinganagar (Duburi) P.S. No.148 of 2021 pending in the court of learned Additional Sessions Judge-cum-Special Judge, Jajpur for commission of offence punishable under Sections 363/366/354/, I.P.C. read with Section 12 of the POCSO Act, 2012 Section 9 of the Prohibition of Child Marriage Act.
 5. The prosecution story, as per the F.I.R. lodged by the informant, is that on the relevant day the uncle of the victim came to her house, seeing that victim is not feeling well, he took her the

medical and thereafter again took the victim to the house of the present Petitioner, there the uncle of the victim left her, the family members of the Petitioner solemnized the marriage of the victim with the present Petitioner, upon these allegations the F.I.R. has been lodged against the Petitioner for commission of the alleged offences.

6. Learned counsel for the Petitioner submits that the Petitioner is in custody since 21.06.2021 and in the meantime, charge-sheet has already been submitted. He further submits that the statement of the victim recorded under Section 164, Cr.P.C. wherein she has not stated about the commission of rape. Further, learned counsel for the Petitioner submits that there is no scope for absconding or fleeing away from the hands of the justice.

7. 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 be 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.

8. 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.30,000/- (rupees thirty 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 try to threaten or influence the witnesses or 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;
- IV. He shall not make any attempt to come in contact with the victim; and
- V. He shall appear before the concerned Police Station once in a week preferably on 'Sunday' in between 10.00 A.M. to 1.00 P.M. till conclusion of trial.

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

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

10. The Bail Application is accordingly disposed of.

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

Jagabandhu

(A.K. Mohapatra)
Judge