

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLA No.423 of 2021

Manoj Kumar Mahanta

....

Appellant

Mr.Susil Ku. Pattnaik, Advocate

Versus

1.State of Odisha

2.Mita Munda

....

Respondents

Mr.S.S.Pradhan, AGA

(for Respondent No.1)

Mr. Manoj Ku. Panda, Advocate

(for Respondent No.2)

CORAM:
JUSTICE SAVITRI RATHO

ORDER
04.02.2022

Order No.

05. 1. I have heard Mr.Susil Kumar Pattnaik, learned counsel for the appellant, Mr. S.S.Pradhan, learned Addl. Government Advocate for respondent No.1 and Mr. Manoj Ku. Panda, learned counsel for the Respondent No.2 through hybrid mode.
2. This is an application for grant of bail to the appellant- Manoj Kumar Mahanta in connection with Keonjhar Sadar P.S. Case No.56 of 2021 corresponding to Special Case No.20 of 2021 pending in the Court of the learned Addl. Sessions Judge-cum-Special Judge, Keonjhar registered against the appellant for commission of offence punishable under Sections 363/376 (3)/313/506 of I.P.C. read with Section 6 of POCSO Act and Section 3 (2) (v) (va) of S.C. and S.T. (POA) Act.
3. The prayer for bail of the appellant has been rejected by order dated 12.04.2021 passed by the learned Addl. Sessions Judge-cum-Special Judge, Keonjhar.

4. An affidavit has been filed by learned counsel for respondent No.2 on 23.11.2021 purportedly sworn to by respondent No.2-victim on 09.11.2021 before the Notary Public, Keonjhar stating that she is the informant and victim in G.R. Case No.20 of 2021 arising out of Keonjhar Sadar P.S. Case No.56 of 2021. Respondent No.2 has appeared in Court with her mother being identified by her counsel, Mr. Manoj Ku. Panda. When asked to read the affidavit, she was unable to read the affidavit but states that the affidavit has been given by her. The affidavit is in English and there is no endorsement that it has been explained in Odia to respondent No.2.

5. In the affidavit it has been stated that respondent No.2 was having love affairs with the appellant since long but he has never committed any sexual intercourse with her, but due to mis-conception and pressure, she has filed the case against him and now everything has been clear and settled and that she had never become pregnant from the side of the appellant. Hence, she has no objection if the appellant is released on bail and she does not want to press this case.

6. Mr.Susil Kumar Pattnaik, learned counsel for the appellant states that on the same date, two F.I.Rs. have been filed. Keonjhar Sadar P.S. Case No.55 of 2021 has been filed against Satrugna Nayak for commission of offence under Sections 376 (3)/506 of I.P.C. read with Section 6 of POCSO Act, 2012 and Section 3 (2) (v) (va) of S.C. and S.T. (POA) Act, 1989. Keonjhar Sadar P.S. Case No.56 of 2021 has been registered against the present appellant for commission of offence under Sections 363/376 (3)/313/506 I.P.C. read with Section 6 of the POCSO Act and Section 3 (2) (v) (va) of S.C. and S.T. (POA) Act. Subsequently, in her statement recorded under Section 164 Cr.P.C. to this appeal under Annexure-3, the victim has stated that she was

staying with Satrughna voluntarily and nobody kidnapped her and this is a false case and she has not been raped by anybody.

7. Mr. S.S.Pradhan, learned Addl. Government Advocate states that as per the school admission register, the date of birth of respondent No.2 is 10.2.2005 and he further states that from the statement of the victim-respondent No.2, her mother-Haramani Munda and Sukanti Patra, member of Child Line and other witnesses recorded under Section 161 Cr.P.C., a prima facie case is made out against the appellant.

8. Mr. N.Panda, learned counsel for respondent No.2, argued in favour of the appellant stating that the victim is a major, and her statement recorded under Section 164 Cr.P.C. does not implicate the appellant for which he should be released on bail.

9. The allegation in the FIR has been substantiated by the statement of respondent No.2, her mother-Haramani Munda and other witness namely, Sukanti Patra, the member of child line and one Prabir Chandra Panda and Bharat Chandra Nayak who were working in the police outpost. The allegations are that the petitioner kept sexual relations with the victim girl when she was aged about 15 years on a number of occasions and assured to marry her for which she did not make any complaint and when her family members objected, the petitioner took her away and that she had become pregnant and he had given her medicines for aborting the child and thereafter he avoided contact with her.

10. Considering the respective submissions of the learned counsels, and the age of the victim girl when the offence was committed, I am not inclined to allow the prayer for bail at this stage. The appeal is accordingly dismissed.

11. Liberty is granted to the appellant to move the trial Court for bail after examination of the victim girl.

12. The Criminal Appeal is dismissed with the aforesaid observation.

13. In view of the restrictions due to resurgence of COVID-19 situation, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020, modified by Notice No.4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(Savitri Ratho)
Judge

Bichi

