

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7118 of 2021

Dharmendra Pata Majhi @ Amendra Pata Majhi ***Petitioner***

Mr.Nepoleon Sahani, Advocate

-versus-

State of Orissa

.... ***Opposite Party***

Mr. K.K. Nayak, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

07.03.2022

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Muniguda P.S. Case No.41 of 2021, arising out of T.R. Case No.28 of 2021, pending in the court of learned Addl. District and Sessions Judge-cum-Presiding Officer, Special Court POCSO Act, Rayagada, for commission of alleged offences under Sections 363/376(2)(n)/376(3) of IPC read with section 6 of POCSO Act.
3. Heard learned counsel for the Petitioner, learned counsel for the State and learned counsel for the Informant. Perused the Case Diary, F.I.R. and the statement of the witnesses.
4. The case of the prosecution, in a nutshell, is that his younger sister Rasmita Bredeka aged about 16 years was studying in Class-IX in Dangosorda High School. He brought her to his village for treatment. It is alleged that while she was undergoing treatment, the present Petitioner kidnapped his younger sister from his village. It is

submitted by the Informant that in spite of his best effort, he could not trace out her whereabouts. Accordingly, he lodged an FIR against the present Petitioner bearing Muniguda P.S. Case No.41 of 2021 for commission of the above offences.

5. Learned counsel for the Petitioner submits that Petitioner is languishing in jail custody since the date of his arrest, i.e. 29.04.2021. It is submitted that he is no way connected in this case and has been falsely entangled in the case. In the charge-sheet submitted by the police, the name of the Petitioner is not made out, as claimed by the Petitioner. Since he is a local resident, there is no chance to avoid the trial of the case.

6. On a bare perusal of the statement of the victim girl recorded under Section 164 Cr.P.C., it is found that the victim girl confessed that she had developed love relationship with the Present Petitioner even though she had fully aware of the fact that he was a married person having three kids. She had also admitted that she married the present Petitioner and kept physical relation as husband and wife.

7. Learned counsel for the State on the other hand vehemently objects the prayer for bail of the Petitioner on the ground that as a pastor, Petitioner has committed heinous offence with a minor girl, therefore, no leniency should be shown to the accused person. However, he submits that in the event of release, stringent conditions may be imposed on the Petitioner.

8. Having heard learned counsel for the parties, considering the nature and gravity of offences alleged and the period of detention of the Petitioner and the statement of the victim girl recorded under Section 164 Cr.P.C., this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty

thousand) with one local surety for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions :

- (i) He shall appear before the trial court on each and every date as fixed by the court;
- (ii) He shall not tamper with the prosecution evidence;
- (iii) He shall not influence or threaten any prosecution evidence and cooperate in the investigation;
- (iv) He shall provide the present address and mobile number to the local police station; and
- (v) Violation of any of the above conditions shall entail cancellation of the bail.

9. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioner and impose any additional condition(s), if situation so warrants. This order shall remain valid in the event the court in seisin of the matter is satisfied that Petitioner has no criminal antecedents.

10. With the above direction, the BLAPL is accordingly allowed.

11. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge