

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7402 of 2021

Gorali Hari

..... Petitioner
Mr. Ashok Das, Advocate

-versus-

State of Odisha and another

..... Opposite Parties
Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

20.04.2022

Order No.

06.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Despite notice issued on the informant, none appears on behalf of the informant and the matter was adjourned for appearance. Neither the informant nor any Advocate appears for the informant.
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 and the statement of the victim recorded under Section 164 of the Cr.P.C.
4. This is an application under Section 439 of the Criminal Procedure Code.
5. The Petitioner is an accused in G.R. Case No.17 of 2020 arising out of Badabazar P.S. No.25 of 2020 pending in the court of learned ADJ-cum-Special Court(POCSO), Berhampur for commission of offence punishable under Sections 450/376(2)/354-

B/506/34, I.P.C. read with Sections 4 and 12 of the POCSO Act

5. The case of the prosecution, in short, is that the informant-victim girl had lodged an F.I.R. dated 09.02.2020 in the police station alleging therein that she was prosecuting in school and she usually goes to school on cycle. The petitioner follows her on her way to school for which she reported her sister. The parents of the informant live in Bhubaneswar. The petitioner fell in love with the informant and assured her to marry. On 27.01.2020 at night the petitioner entered into the house of the informant when her sister protested then the petitioner pushed her and she lost her sense and thereafter, the petitioner committed sexual assault on the informant when the village people came after hearing hulla then the petitioner fled away from the spot. On the next day, parents of the informant came and one village meeting was convened where the petitioner was agreed to marry to the informant and village people with the consent of both the parties marriage was scheduled to be held on 17.02.2020. Subsequently, the brother of the petitioner and his relations came to her house and demanded of Rs.2 lakhs, one motor cycle, gold chain etc. towards demand of dowry otherwise marriage would be possible. Hence, this case.

6. Learned counsel for the Petitioner submits that the Petitioner is in custody since 14.06.2021 and in the meantime, investigation has been concluded and charge-sheet has already been submitted. He further submits that there was love relation between the victim and the petitioner since long and a village meeting was convened and that the marriage was finalized.

7. Further, learned counsel for the Petitioner submits that as per medical examination report of the victim, there is no sign or

symptom of recent sexual intercourse and that there is no scope for absconding or fleeing away from the hands of the justice, as the Petitioner is permanent resident of the locality.

8. Mr. Mohanty, 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. Admittedly, there was love relation between the victim and the petitioner. 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. Considering the facts and circumstances, materials on record 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 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;

- IV. he shall not make any attempt to contact the victim and shall stay away from the victim and her family members; and
- V. he shall appear before the concerned Police Station once in a fortnight 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.

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.

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

(A.K. Mohapatra)
Judge

Jagabandhu