

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8582 of 2022

Babuli @ Bairagi Majhi* *Petitioner

Mr.Julu Khansama, Advocate

-versus-

State of Odisha* *Opp.Party

Mr.Arupananda Das,

Addl. Government Advocate

Mr. S.R. Mohapatra, Advocate

(for the informant)

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
25.11.2022**

Order No.

01. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

This is an application under section 439 of Cr.P.C. in connection with Naktideul P.S. Case No.70 of 2020 corresponding to S.T. Case No. 25/51 of 2021 pending in the Court of learned Addl. Sessions Judge, Rairakhol for offences punishable under sections 341/342/376(2)(n)(I) of the Indian Penal Code.

The petitioner moved an application for bail before the Court of Addl. Sessions Judge, Rairakhol, which was rejected on 29.08.2022.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 13.10.2020 and his earlier bail application in BLAPL No. 7265 of 2020 was rejected as per order dated 22.02.2021 relying on the 164 Cr.P.C. statement of the victim and liberty was granted to the petitioner to renew his prayer for bail after examination of the victim in the learned trial Court. Learned counsel further submitted that the victim has been examined as P.W. 2 and she stated her age to be twenty nine years and further stated in cross-examination that she had sexual relationship with the petitioner many times prior to the date of occurrence with her consent and for that reason her family members were suspecting her. She further stated that prior to her examination before the Magistrate, the police tutored what she had stated in her statement before the police and also what to say before the Magistrate. Learned counsel further submitted that in view of such statement of the victim and her age, she appears to be a consenting party and therefore, the bail application may be favourably reconsidered.

Learned counsel for the State as well as learned counsel for the informant opposed the prayer for bail.

Perused the evidence of the victim and other materials available on record.

Considering the submissions made by the learned counsel for the respective parties, the change in the circumstances after rejection of the earlier bail

application, nature of evidence adduced by the victim in the learned trial Court and taking into account the period of detention of the petitioner in judicial custody, I am inclined to reconsider the prayer for bail and direct the petitioner to be released on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper including the conditions that the petitioner shall appear before the learned trial Court on each date to which the case is posted for trial, shall not indulge in any criminal activities and shall not keep any contact with the victim or the prosecution witnesses. Violation of any of the conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

PKSahoo