

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8702 of 2022

Dhanu Dehury

....

Petitioner

Mr. L. Bhuyan, Advocate

-versus-

State of Odisha & another

....

Opposite Parties

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
28.10.2022

Order No.

04.

1. This matter is taken up through hybrid mode.
2. Heard Mr. Bhuyan, learned counsel for the Petitioner and Mr. Gaya, learned Public Prosecutor.
3. The Petitioner is an accused in connection with Special Case No.60 of 2018, arising out of Nayakote P.S. Case No.37 of 2018, pending on the file of the learned Addl. Sessions Judge-cum-Special Judge, Keonjhar for the alleged commission of offence under Sections 376(D)(A)/506(II) IPC and Section 6 of the POCSO Act.
4. Being aggrieved by the rejection of his application for bail U/s. 439 Cr.P.C. by the learned Ad hoc Addl. District & Sessions Judge, FTSC, Keonjhar by order dated 25.08.2022, the present BLAPL has been filed.
5. Perused the statement of the victim.
6. Considering the tenor thereof and the manner in which the offence has been committed, this Court is **not inclined** to entertain this bail application.

7. Accordingly, the BLAPL stands rejected.
8. Perused the report/explanation submitted by the learned Court in seisin over the matter i.e. learned Ad hoc Addl. District & Sessions Judge (FTSC), Keonjhar dated 27.10.2022. Learned Judge is called upon to be careful in future and to respond within time to the communication of the Registry of this Court.
9. In the report, learned Court in seisin over the matter has indicated that the matter is posted to 04.11.2022 for examination of the school teacher to prove the date of birth of the victim.
10. Considering the same, this Court requests the Superintendent of Police, Keonjhar through learned Public Prosecutor to ensure the presence of the witness on 04.11.2022. The Superintendent of Police will be held accountable in the event the official witness does not attend the Court in seisin over the matter on the date fixed subject to any health issues on the said witness. As prayed for by the learned Court in seisin over the matter, time is extended by two months from this day for conclusion of trial. Let it be borne in mind that the accused is in custody since 19.06.2018 and his Constitutional Right cannot be allowed to be infringed because of non-cooperation of the official witness.
11. If necessary coercive action in accordance with law be taken to ensure the attendance of the witness so that the trial can be concluded within the extended period of two months, as above.
12. It is noted that the above report/explanation was received in the Registry on 18.10.2022. It does not stand to reason as to why such report/explanation was not placed for consideration of the Court when the matter was taken up on 26.10.2022. Such conduct of the concerned Superintendent and the Dealing Assistant is ex facie not acceptable.

13. Learned Registrar (Judicial) is requested to call for an explanation from the concerned officials as to why action on the administrative side should not be initiated against them for not placing on record the communication received from the learned Court in seisin over the matter for which the case at hand suffered an adjournment.

14. The matter be dealt with on the administrative side by the learned Registrar (Judicial) as per the established procedure.

15. Considered the communication of the learned Addl. Sessions Judge, Keonjhar.

16. She is called upon to be careful in future in matters of this nature where keeping in view the rights of the accused, this Court had fixed time limit for disposal of the case, if the same comes to her notice. Inasmuch as even if the same does not relate to matters in her court as a Senior Officer of the Station, she is requested to ensure that the direction of this Court is scrupulously followed in its letter and spirit.

17. This bail application need not be listed in Court.

18. A copy of this order be made over to learned Public Prosecutor, Mr. Gaya. He is requested to do the needful.

19. Registry is requested to communicate this order to the learned Addl. Sessions Judge, Keonjhar, Court in seisin over the matter and the Superintendent of Police, Keonjhar.

***Sd/- V.Narasingh, J
Judge***

True Copy

Sr. Secy

PKS