

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8731 of 2022

Basant Kumar Naik* *Petitioner

Mr. J. Sahoo, Advocate

-versus-

State of Odisha* *Opp. Party

*Mr. Arupananda Das,
Addl. Government Advocate*

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

**ORDER
01.12.2022**

Order No.

03.

This matter is taken up through Hybrid Arrangement (Video Conferencing/Physical Mode).

Learned counsel for the State on instruction submitted that the notice on the informant is made sufficient.

None appears on behalf of the informant.

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 G.R. Case No.47 of 2020 arising out of Buguda P.S. Case No.198 of 2020 pending in the Court of learned Additional Sessions Judge -cum- Special Judge under POCSO Act, Berhampur for offences punishable

under sections 363/366/376(2)(n)/376(3) of the Indian Penal Code read with section 6 of the POCSO Act.

The petitioner moved an application for bail before the Court of learned Additional Sessions Judge -cum- Special Judge under POCSO Act, Berhampur, which was rejected on 02.09.2022.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 26.07.2020 and while rejecting the earlier bail application of the petitioner in BLAPL No.706 of 2021 as per order dated 24.08.2021, liberty was granted to the petitioner to renew the prayer for bail after examination of the victim in the trial Court. It is further submitted that in the meantime, the victim has been examined and the victim refused for her medical examination and the petitioner is having no criminal antecedent and at this stage, there is no chance of tampering with the evidence and the petitioner is a local man and there is no chance of absconding and therefore, the bail application of the petitioner may be favourably reconsidered.

Perused the evidence of the victim, which has been filed by the learned counsel for the petitioner along with the bail application.

Learned counsel for the State opposed the prayer for bail, however, on verification of the charge sheet fairly submitted that the victim did not agree for her medical

examination.

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced during the trial by the victim, the period of detention of the petitioner in judicial custody and in view of the change in the circumstances after the rejection of the earlier bail application, 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 subject to condition that the petitioner shall appear before the learned trial Court on each date when the case would be posted for trial.

Violation of any terms and conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge