

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9005 of 2022

Tophan Naik @ Tofan Naik

Petitioner

Mr. J. Sahoo, Advocate

-versus-

State of Odisha

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
10.11.2022

Order No.

02.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is an accused in G.R. Case No.127 of 2022, pending in the file of learned Additional District Judge-cum-Special Court under POCSO Act, Berhampur, arising out of Dharakote P.S. Case No.205 of 2022, for alleged commission of offence under Sections 341/363/354-A(1)(i)/506/509/34 of IPC read with Section 8 of POCSO Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional District Judge-cum-Special Court under POCSO Act, Berhampur by order dated 09.09.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that the petitioner is in custody since 17.08.2022 and as charge sheet has

already been filed on 30.09.2022, further continuance of the petitioner in custody is not warranted.

6. Learned counsel for the State relying on the statement of the victim and her brother Babula Nayak aged about 10 years submits that because of role ascribed to the present petitioner, he ought not to be released on bail merely because charge sheet has already been filed.

7. Perused the 164 Cr.P.C. statement of the victim and all the witnesses as cited.

8. Considering the tenor of the same and taking into account the period of custody and the role played by the present petitioner, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin over the matter.

9. It is needless to state here that release of the petitioner shall not be treated as a precedent qua the co-accused whose bail application has to be considered on its own merits.

10. While releasing the petitioner on bail learned Court in seisin shall verify assertion regarding criminal antecedent of the petitioner. If it comes to the fore that the petitioner has criminal antecedent of any nature this order shall stand recalled.

11. Accordingly, the BLAPL stands disposed of.

12. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge