

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8307 of 2021

Jagara Swain

....

Petitioner

Mr. S.R. Subudhi, Advocate

-versus-

State of Odisha

....

Opposite Party

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

09.03.2022

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Learned counsel for the Petitioner is permitted to make necessary correction in the cause tile of the bail application so far as P.S. Case number is concerned in Court today.
 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, statement of the victim recorded under Section 164 of the Cr.P.C. and other relevant documents on record.
 4. This is an application under Section 439 of the Criminal Procedure Code.
 5. The Petitioner is an accused in G.R. Case. No.962 of 2021 arising out of Khallikote P.S. No.449 of 2021 pending in the court of learned J.M.F.C., Khallikote for commission of offence punishable under Sections 376(E)294/506/379/34, I.P.C. read with Section25(1-B)(a) of the Arms Act.

6. The F.I.R. story as reveals that the Petitioner had kept physical relationship with the informant by showing gun and knife as per his will and threatened her took away the life of her family members if she disclose the matter. The Petitioner intentionally tried to cancel the marriage proposals of the informant. On 14.07.2021 morning at 8.00 A.M. while the informant had gone to well the Petitioner reached there and kept a gun on the head of the informant took away her to a crop land and kept physical relations with her. Thereafter, the Petitioner took away one gold chain, Mangalsutra and two rings from the informant. The informant disclosed the matter before her parents of the informant had gone to the house of the Petitioner and the father, mother and brother of the Petitioner gave blows to them.

7. Learned counsel for the Petitioner submits that the Petitioner is in custody since 19.07.2021 and in the meantime, investigation has been concluded and charge-sheet has already been submitted by the I.O. He further submits that both the victim and the petitioner were in love relationship since last five years and the victim is a major girl and the charge-sheet submitted under Sections 294/506/363/376(2)(n)/34, I.P.C. Since the marriage of the victim was fixed another place, the present Petitioner was trying to disturb. Further he submits that there are contradictions in the F.I.R. as well as the statement of the victim recorded under Section 164, Cr.P.C. As per medical examination report of the victim, there is no sign or symptom of recent sexual intercourse.

8. Learned counsel for the Petitioner further submits that there is no scope for absconding or fleeing away from the hands of the justice, as the Petitioner is a permanent resident of the locality.

9. 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. 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.

10. Having heard the learned counsels for the parties, considering the nature of allegation, statement of victim recorded under Section 164, Cr.P.C. 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.50,000/- (rupees fifty 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. He shall not leave the jurisdiction of the Court in seisin over the matter and shall furnish his address and mobile number to the police from time to time; and
- IV. He shall not make any attempt to contact the victim and shall stay away from the victim and her family members.

V. He shall appear before the concerned Police Station once in a week 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.

11. It is open for the court in seisin over the matter to impose other conditions may deem just and proper.

12. The Bail Application is accordingly disposed of.

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

(*A.K. Mohapatra*)
Judge

Jagabandhu

