

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No.8551 of 2021**

***Nilesh Sahu***

***.... Petitioner***  
***Mr. U.R. Jena, Advocate***

***-versus-***

***State of Odisha and another***

***.... Opposite Parties***  
***Mr. M.K. Mohanty, A.S.C.***

**CORAM:**

**JUSTICE A.K. MOHAPATRA**

**ORDER**

**23.03.2022**

**Order No.**

05.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Despite notice issued on the informant, none appears on behalf of the informant and the matter was adjourned for appearance. Neither the informant nor any Advocate appears for the informant.
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 and other relevant documents on record and the statement of the victim recorded under Section 164 of the Cr.P.C.
4. This is an application under Section 439 of the Criminal Procedure Code.
5. The Petitioner is an accused in Special G.R. Case No.50 of 2021 arising out of Katarabaga P.S. No.114 of 2021 pending in the court of learned Additional Sessions Judge-cum-Special Court(POCSO), Sambalpur for commission of offence punishable under Sections 294/323/506/34/376(2)(n), I.P.C. read with Section 6

of the POCSO Act and Sections 3(2)(v) and 3(2)(va) of the S.C. and S.T. (P.A.) Act.

5. The case of the prosecution, in short, is that the informant-victim girl had lodged an F.I.R. dated 09.06.2021 in the Katarabaga Police Station alleging therein that since last two years, the accused-petitioner has been keeping physical relationship with the victim girl on the pretext of marriage and on 15.04.2021, when the victim had proposed the accused for marriage, she was taken to the village of the accused where his parents were present and all of them had suggested the victim girl not to proceed with any case and offered money to her and on denial by the victim girl, she was abused and assaulted by them. Further she alleged that on the next day, brother of the accused petitioner brought her to village Kelada by a motorcycle and left the victim girl in front of the house of one Sankar Meher. It is also stated that the parents of the victim girl had refused to accept her and for which, a village meeting was convened for the settlement of the matter on 04.06.2021 and in the meeting, the petitioner and his brother had said that, as victim girl is a minor by age, marriage could not be done and after she attains majority, the marriage would be done. Hence, again on 05.06.2021, another meeting was convened and in that meeting the petitioner and his father and brother were present and they denied for marriage as the victim girl belongs to GOND caste. Later petitioner and his family members have threatened the victim for dire consequences, if she lodges any case. Basing upon these allegations, instant F.I.R. was lodged and registered as against the petitioner, his father and brother.

6. Learned counsel for the Petitioner submits that the Petitioner is in custody since 18.06.2021 and in the meantime, investigation has been concluded and charge-sheet has already been submitted. He

further submits that there was love relation between the victim and the petitioner since last one year and the fact was admitted by the victim in her statement recorded under Section 164, Cr.P.C. The victim and her family members were abused by the family members of the petitioner taking their caste.

7. Further, learned counsel for the Petitioner submits that the victim is a major girl and referring the statement of the victim recorded under Section 164 of the Cr.P.C. and as per medical examination report of the victim, there is no sign or symptom of recent sexual intercourse and that there is no scope for absconding or fleeing away from the hands of the justice, as the Petitioner is permanent resident of the locality.

8. 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. Admittedly, there was love relation between the victim and the petitioner. 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.

9. Considering the surrounding facts and circumstances, materials on record, statement of the victim recorded under Section 164 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.30,000/- (rupees thirty 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;
- IV. he shall not make any attempt to contact the victim and shall stay away from the victim and her family members; and
- V. he shall appear before the concerned Police Station once in a fortnight 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.

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

11. The Bail Application is accordingly disposed of.

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

**( A.K. Mohapatra )**  
**Judge**