

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLA No.876 of 2019

Abhisekh Paswan

....

Appellant

Mr.P.K.Routray, Advocate

Versus

1.State of Odisha

2.Swapna Bhosagar

3.Lobha Bhorasagar

....

Respondents

Mr.S.S.Pradhan, AGA

(for Respondent No.1)

CORAM:
JUSTICE SAVITRI RATHO

ORDER
24.01.2022

Order No.

07. 1. I have heard Mr. P.K.Routray, learned counsel for the appellant and Mr. S.S.Pradhan, learned Addl. Government Advocate through hybrid mode.
2. This is an application for grant of bail to the appellant-Abhisekh Paswan in connection with Barpali P.S. Case No.145 of 2019 corresponding to C.T. Case No.23 of 2019 pending in the Court of the learned Addl. Sessions Judge-cum-Special Judge (POCSO) Act, Bargarh registered against the appellant for commission of offence punishable under Sections 341/323/342/395/294/354/363/120-B/376/506 of I.P.C. read with Section 6 of the POCSO Act and Section 3 (1) (x) (s) and 2 (u) (va) of S.C. and S.T. (POA) Act.

3. The prayer for bail of the appellant has been rejected by order dated 28.10.2019 passed by the learned Addl. Sessions Judge-cum-Special Judge (POCSO) Act, Bargarh.

4. Respondent No.3, the mother of the victim duly identified by the IIC., Barpali Police Station had appeared through Video Conferencing from the Barpali Police Station and objected to the prayer for bail stating that pursuant to a plan to which the present appellant was a party, her minor daughter had been raped.

5. Mr. P.K.Routray, learned counsel for the appellant submitted that there is no allegation against the appellant for commission of offence under Section 376 I.P.C., but against one Babulu Nial who is still in custody. False allegations have been made against him due to previous enmity. The allegation against the appellant is that the appellant along with other co-accused had obstructed the victim girl and her friend while returning from village mela and snatched away Rs.500/- forcibly from them and detained them in their custody. At that time, the main accused Babulu Nial arrived at the spot and took the victim girl assuring to drop in her house but instead of doing so, on the way, he committed rape on her. He further submits that the two accused persons, namely, Sukru Padhan in BLAPL No.7581 of

2019 and one Bikash Rout in BLAPL No.6214 of 2019 who stand on similar footing to that of the present appellant have been granted bail by this Court.

6. Mr. Pradhan, learned Addl. Government Advocate does not dispute the submission that the allegation against the appellant under Section 376 IPC has not been made specifically against the appellant. But he submitted that the accused persons in a preplanned manner have committed the offence but the victim unsuspectively fell into their trap for which the charge sheet has been submitted for commission of offence under Sections 341/ 323/342/395/294/354/363/120-B/376/506 of I.P.C. read with Section 6 of the POCSO IPC along with Sections 3 (1) (2) (v) of the S.C. and S.T. (POA) Act in the case.

7. Co-accused Sukru Pradhan does not stand on the same footing as the appellant and co-accused Bikash Rout has been released on bail on the ground that co-accused has been released on bail.

8. Considering the respective submissions of the learned counsels, nature of allegations against the appellant, the punishment prescribed for the offences alleged against him, I am not inclined to allow this appeal and to release the appellant on bail at this stage.

9. The appeal is accordingly dismissed. Trial of the case be expedited. Liberty is granted to the appellant to move the trial court for bail afresh after examination of the victim girl.

10. In view of the restrictions due to resurgence of COVID-19 situation, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020, modified by Notice No.4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(Savitri Ratho)
Judge

Bichi