

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8940 of 2021

Bhodeba Majhi and another

.... ***Petitioners***
Mr. M. Chand, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
Mr. P.K. Pattanaik, A.G.A.

**CORAM:
JUSTICE G. SATAPATHY**

ORDER
26.10.2022

Order No.

- 08.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the petitioners for grant of bail in connection with Titilagarh P.S. Case No.444 of 2020 corresponding Spl. G.R. Case No. 98 of 2020 pending in the Court of learned Addl. Sessions Judge-Cum-Special Judge (POCSO), Balangir for commission of offences punishable under Sections 376(D)/294/323/34 of I.P.C. and Section 6 of POCSO Act on the allegation of committing Gang rape and aggravated penetrative sexual assault upon the victim by abusing in filthy language and assaulting her.
 3. In the course of hearing of the bail application, learned counsel for the petitioners submits that the petitioners are innocent persons and they are in their early twenties and the allegations levelled against the petitioners are out and out false since no injury has been detected on the person of the victim and the petitioners have been

detained in jail custody since one and half years seriously affecting their personal liberty. Learned counsel for the petitioners by aforesaid submission prays to enlarge the petitioners on bail.

4. On the other hand, learned counsel for the State by producing a copy of the statement of the victim recorded U/S. 164 of Cr.P.C. submits that the petitioners does not deserve to be released on bail.

5. After having considered the rival submissions upon perusal of allegation on record, it appears that the petitioners have been arrested for serious offences U/Ss. 376(D) of I.P.C. and Section 6 of POCSO Act and the statement of the victim U/S. 164 of Cr.P.C. reflects allegations against the petitioners for not only committing sexual assault upon her but also for shooting videos and nude photographs of the victim at the time of occurrence. It is no doubt true that the petitioners are stated to be inside custody since last one and half years but when the alleged act of the petitioners are weighed with their pre-trial detention, it would not persuade this Court to consider to give benefit of bail to the petitioners.

6. Considering the nature and gravity of offence and the allegation raised by the victim against the petitioners and taking into account the social stigma attached to the alleged act of the petitioners upon the victim on the face of allegations against the petitioners narrated in the preceding paragraph, this Court considers it undesirable to grant bail to the petitioners.

7. Hence, the prayer for bail of the petitioners stand rejected. At this point of time, learned counsel for the petitioners seeks liberty to move this Court afresh after examination of the victim. It is needless to say that the petitioners are at liberty to move the Court after examination of the victim.

8. Accordingly, the BLAPL stands disposed of.
9. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

Subhasmita

