

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10083 of 2022

Manas Behera

....

Petitioner

Mr. R. Das, Advocate

-versus-

State of Odisha and another

....

Opposite Parties

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

12.12.2022

Order No.

02.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Learned counsel for the State on instruction submits that notice has been served on the informant (Sura Bisoi) on 06.12.2022. There is no appearance on behalf of the informant when the matter is called.
3. The petitioner is an accused in C.T. Case No.5196 of 2021, pending in the file of learned Ad-Hoc Additional Sessions Judge, Fast Track Special Court (POCSO), Bhubaneswar, arising out of Airport P.S. Case No.254 of 2021, for commission of alleged offences under Sections 363/376(2)(n)/366/376(3) of IPC read with Section 6 of POCSO Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Ad Hoc Additional Sessions Judge, Fast Track Special Court (POCSO), Bhubaneswar by order dated

22.07.2022 in the aforementioned case, the present BLAPL has been filed.

5. It is submitted that the petitioner is in custody since 12.11.2021 and charge sheet is filed on 11.01.2022. On instruction, learned counsel for the petitioner submits that the trial has not commenced though the petitioner is in custody for more than a year.

6. Perused the 164 Cr.P.C. statement of the victim, which is on record.

7. Taking into account the non-commencement of the trial and keeping in view the dictum of the apex Court in the case of *Hussainara Khatoon & Ors vs. State of Bihar* reported in (1980) 1 SCC 81, 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.

8. Accordingly, the BLAPL stands disposed of.

9. Urgent certified copy of this order be granted as per the rules.

(V. NARASINGH)
Judge

Santoshi