

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9006 of 2021

Jitendra Harijan

....

Petitioner

Mr. S.N. Mishra-4, Advocate

-versus-

State of Odisha

....

Opposite Party

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

11.05.2022

Order No.

03.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. 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.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioner is an accused in C.T. Case No.919/75 of 2021 arising out of Bijepur P.S. No.31 of 2021 pending in the court of learned Additional Sessions Judge-cum-Special Court under POCSO Act, Bhawanipatna for commission of offence punishable under Sections 376(2)(n)/294/506, I.P.C. read with Sections 6 and 12 of the POCSO Act
5. The case of the prosecution, in short, is that the informant-

victim girl had lodged an F.I.R. that the accused-petitioner kept repeated sexual relationship with her with false promise of marrying her. She has further alleged a meeting was called to resolve the dispute between her and the accused-petitioner and the accused-petitioner in that meeting refused to marry her for which she lodged the present F.I.R. against the petitioner. On this F.I.R., initially a case was registered against the petitioner for offences under Sections 417/493/294/506, I.P.D. During investigation, the Investigating Officer seized the school admission register of the victim and her date of birth is mentioned as 10.04.2006. The case is investigated for POCSO offences. Hence, this case.

6. Learned counsel for the Petitioner submits that the Petitioner is in custody since 27.08.2021 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 long and a village meeting was convened and while refusing to accept the victim, then the case has been foisted against the petitioner. Further, learned counsel for the petitioner submits that the victim girl was aged about 18 years old at the time of the alleged occurrence and also the present petitioner was 20 years old at the said time. The marriage proposal was sent to the house of the petitioner but the family members of the petitioner refused the same. The present case has been made against the petitioner.

7. Further, learned counsel for the petitioner submits that 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 facts and circumstances, materials on record 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.

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

Jagabandhu

