

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

**ABLAPL No.13340 of 2022**

***Kalam Babu @ Kalam Khan***

.... ***Petitioner***  
Amrita Mishra, Advocate

**-versus-**

***State of Odisha***

.... ***Opposite Party***  
Mr. Shashanka Patra, A.S.C.

**CORAM:  
JUSTICE CHITTARANJAN DASH**

**ORDER**  
**01.11.2022**

**Order No.**

02.

1. Heard learned counsel for the Petitioner and the State.
2. This is an application for bail under Section 438 Cr.P.C. filed by the Petitioner apprehending his arrest in connection with Lalbagh P.S. Case No.207 of 2022 corresponding to Spl. G.R. Case No.120 of 2022 pending in the court of learned ADJ-cum-Spl. Court under POCSO Act, Cuttack, wherein the Petitioner is allegedly involved in the offences punishable under Sections 377/506, I.P.C. and Sections 4 & 8 of the POCSO Act.
3. It is alleged that, on 2<sup>nd</sup> September, 2022 one Md. Sajid of Baunsagali under Daraghabazar P.S. lodged a written report at the said P.S. informing that his minor son namely Md. Saheb along with his friend namely Sk. Abdul Nizam was engaged in playing in the Christian Playground and had been to the nearby pond to take bath for being soiled in course of playing game in the field. In the meanwhile accused Kalam Babu (petitioner) having appeared in the

said pond, pushed the son of the Informant namely Md. Saheb and his friend Sk. Abdul Nizam into the pond and committed unnatural sex with both the said minor children and threatened them not to disclose the fact before anybody. Since it was already late evening by the time the matter was brought to the notice of the Informant by the victims, F.I.R. was lodged in the next morning.

4. It is submitted by learned counsel for the Petitioner that this is a vague and concocted story and there is no semblance of truth and accordingly the accused-Petitioner may be considered for bail.

5. Learned counsel for the State on the contrary, referring to the statements of both the victims recorded under Section 164, Cr.P.C., submits that the victims' age is 13 years and both of them have given a complete narration of the incident and the manner in which they were subjected to the unnatural sex by the accused. Consequently, the narration clearly embraces the accused in the alleged offence.

6. The offence reveals is not only heinous but regard being had to narration made in the F.I.R and statement of the victims U/s. 164 Cr.P.C the circumstance and gravity of crime on both the minor victims it squarely attracts the provision of Sections 4 & 8 of the POCSO Act and does not merit consideration for anticipatory bail. Therefore, this Court is not inclined to grant anticipatory bail. Accordingly, the ABLAPL is dismissed.

**( Chittaranjan Dash )**  
**Judge**