

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9289 of 2021

Dhanu Dehury

....

Petitioner

-versus-

State of Odisha & another

....

Opposite Parties

CORAM:

THE JUSTICE S.PUJAHARI

ORDER

07.01.2022

Order
No.

02.

1. This matter is taken up through Hybrid mode.
2. Heard learned counsel for the Petitioner and the learned counsel for the State.
3. The Petitioner being in custody in Special Case No.60 of 2018, arising out of Nayakote P.S. Case No.37 of 2018 pending in the court of learned Addl. Sessions Judge-cum-Special Judge, Keonjhar, has filed this petition for his release on bail. The offence alleged against the Petitioner is punishable under Sections 376DA/506(II) IPC and Section 6 of the POCSO Act.
4. Learned counsel for the Petitioner submits that since the victim has given prevaricating statement at different stages of the said case, the Petitioner deserves to be released on bail inasmuch as the same demolishes the credibility of her version on the allegation of rape.
5. However, appreciation of evidence adduced during trial being impermissible while in seisin over a petition under

Section 439 Cr.P.C as that would tantamount to prejudging the case, this Court is not inclined to release the Petitioner on bail on the ground stated.

6. Accordingly, the BLAPL stands rejected. However, since the Petitioner is in custody since 19.06.2006 and the victim in this case has already been examined, the trial of the aforesaid case be concluded within six months, failing which, the Petitioner may renew his prayer for bail on the ground of delay in disposal of the case and in that event, the court in seisin over the same shall consider the same taking note of the attending circumstances for his release on bail notwithstanding the rejection of the prayer for bail by this Court.

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

(S. Pujahari)
Judge

PKS