

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9299 of 2021

***Debashish Gartia @ Dabasish
Gadtia***

....

Petitioner

*Mr. Arjun Charan Behera, 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).

Learned counsel for the petitioner files the deposition copy of the D.W.1 in Court today. The same is accepted and be kept on record.

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.45 of 2021 arising out of Bargarh Sadar P.S. No.270 of 2021 pending in the court of learned Additional District Judge-cum-Special Court under POCSO Act, Bargarh for commission of offence punishable under

Sections 376(2)(n)/380/294/506, I.P.C. read with Section 6 of the POCSO Act

5. The case of the prosecution, in short, is that the the informant-victim lodged a complaint before the police on 16.09.2021 by alleging therein that the petitioner has been giving false assurance of marriage and committing rape to her in several times since two years back. The informant alleged that by taking an advantage of the absence of the family members went to her house approached her for marriage and committed rape in spite of her protest since two years back and since then the petitioner has been committing rape regularly with the informant.

6. Learned counsel for the Petitioner submits that the Petitioner is in custody since 19.09.2021 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 two years back of the incident 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 regularly giving drugs tablets to her parents in their food material and thereafter she kept sexual intercourse with 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

