

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

**CRLA No. 935 of 2022**

***Akhia @Akhaya Kumar  
Sahoo***

***....***

***Appellant  
Mr. A.K. Das, Advocate***

***-Versus -***

***State of Odisha***

***....***

***Opposite Party  
Mr. P. Tripathy,  
Additional Standing Counsel  
Mr. P.K. Ray,  
Advocate for the informant***

**CORAM:**

**JUSTICE SASHIKANTA MISHRA**

**ORDER  
08.12.2022**

**Order No.  
07.**

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Appellant, learned Additional Standing Counsel for the State and learned counsel appearing for the informant.
3. The appellant has been in custody since 02.08.2022 in connection with C.T. No. 235 of 2022 arising out of Jagatsinghpur P.S. Case No. 492 of 2022 pending in the Court of learned Sessions Judge-cum-Special Judge, Jagatsinghpur.
4. It is alleged that the appellant entered into the house of the prosecutrix at night taking advantage of the open door and forcibly committed rape on her on the threat of killing her minor daughter. It is the further case of the prosecution that the sister-in-law of the prosecutrix had seen the appellant as he was fleeing from the spot. The statement of the victim recorded under Section-161 Cr.P.C. differs in material particulars from the F.I.R.

5. It is submitted by the learned counsel for the appellant that the relationship between the prosecutrix and the appellant was consensual in nature and the case was foisted only because it came to the knowledge of the family members. He has referred to several whatsapp messages exchanged between the two as also the photographs.

6. Learned counsel for the informant has objected the prayer for bail of the appellant.

7. Learned Counsel for the State has obtained instructions that the mobile phone or the extract of the whatsapp messages was not seized. Be that as it may, the prosecution case as laid, prima facie, raises reasonable doubts, as regards, the nature of relationship between the appellant and the prosecutrix.

8. Taking into consideration the above facts as also the period in custody, I am inclined to allow the prayer for bail. Let the appellant be released on bail on such terms and conditions as the convicting Court may deem fit and proper to impose.

9. Accordingly, the CRLA is disposed of.

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

**(Sashikanta Mishra)**  
**Judge**

Balaram