

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9458 of 2021

Sanatan Tanty

....

Petitioner

Mr. Arun Kumar Budhia, Advocate

-versus-

State of Orissa and another

....

Opposite Party

Mr. P.C.Das, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

20.04.2022

Order No.

02.

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 Case Diary, F.I.R. and statement of witness.

3. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Brahmanitarang P.S. Case No.62 of 2021, arising out of Spl. G.R. Case No.38 of 2021, pending in the court of learned Additional District Judge-cum-P.O., Special Court (POCSO), Sundargarh, for commission of alleged offences under Sections 376(2)(n)/376(3) and 506 of I.P.C. and Section 6 of POCSO Act.

4. The prosecution case, in brief, is that on 26.03.2021 at about 8.10 P.M. victim reported that on 22.3.2020 at about 10 A.M.,s he along with the present petitioner were doing cementing work inside the house, and the petitioner lock the house inside in absence of her parents and forcible raped there. It was further alleged that after

arrival of her parents victim disclosed this facts to them and thereafter her parents informed the facts to his wife and thereafter petitioner threatened to take away her life.

5. Learned Senior Counsel for the Petitioner submits that Petitioner is in jail custody since the date of his arrest, i.e. 27.03.2021. It is submitted that the investigation of the case has been over and charge-sheet has been filed by the police. It is further stated that Petitioner had love relationship with the victim girl. It is stated that on consent, physical relation has been established. The medical evidence also corroborates the prosecution story that no recent sexual activity has been established with the victim girl. Further referring to Sections 161 and 164 statements of the victim girl, she herself admitted that she had love relationship with the accused Petitioner. The victim girl is also aware of the fact that the accused is a married person and therefore the question of giving any false promise to marry her does not arise in the present case. Accordingly, a prayer has been made to release the present petitioner on bail on such terms and conditions as deem fit and proper by this Court.

6. Learned counsel for the State on the other hand opposes the bail application of the Petitioner on the ground that the allegation in the FIR is heinous in nature, therefore no leniency should be shown to the accused person. Further he submits that the victim is aged about 16 years, therefore, he prays for rejection of the bail application of the Petitioner.

7. Having heard learned counsel for the parties, considering the nature and gravity of offences alleged, the period of detention of the Petitioner, this Court is inclined to release the Petitioner on bail on

furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with one local surety for the like amount to the satisfaction of the learned court in seisin of the matter. The trial court is directed to fix the terms and conditions as deem fit and proper in the facts and circumstances of the case.

8. With the above direction, the BLAPL is accordingly allowed.

9. Issue urgent certified copy of this order on proper application.

U.K.Sahoo

