

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.13882 of 2022

Devendra Gupta

....

Petitioner

Mr. Dipti Ranjan Bhokta, 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 under Section 438 Cr.P.C. filed by the Petitioner apprehending his arrest in connection with Jeypore Mahila P.S. Case No.85 of 2022 corresponding to G.R. Case No.793 of 2022 pending in the court of learned Sessions Judge-cum-Special Judge (POCSO), Jeypore, wherein the Petitioner is allegedly involved in the offences punishable under Sections 376(2)(n)/376(3)/294/323/506/341/34, I.P.C. and Sections 4 & 6 of the POCSO Act.
3. By virtue of an order passed in I.C.C. Case No.1 of 2022, the matter was taken up for investigation by the police on being directed by the court concerned under Section 156(3), Cr.P.C. and accordingly F.I.R. came into being as mentioned above.

4. It is alleged that, on 1st November, 2022 the present accused requested the complainant and his family members to go to village Murtahandi to witness 'Shivratri' function, as they were having good relationship. Accordingly, the complainant and his family members along with the victim/daughter of the complainant went to village Murtahandi. The victim girl, who was a student of Std.-IX in the nearby Government High School, resided in her maternal aunt's house, where she stayed for 27 days. On 29th March, 2022 while her maternal aunt had been to the school, where she was engaged as a cook, taking advantage of the loneliness in the house, the accused interacted with the victim by applying force. On her refusal, the accused gave her slaps when she cried. He had physical contact on duress. No sooner her maternal aunt returned from the school, the victim girl disclosed the whole incident before her, but was not given much importance by the maternal aunt and, rather she allured the victim to get her married to the accused. Whereafter, the accused, taking advantage of absence of any person in the house of the maternal aunt of the victim, established physical relation with the victim on six to seven occasions, and thereafter the victim insisted her maternal aunt to leave in her house and thereafter reaching her house the victim immediately brought this fact to the notice of her parents. The father of the victim enquired about the fact from his sister over telephone and expressed his anguish on her. On the basis of the report, the law was set in motion.

5. It is submitted by learned counsel for the Petitioner that the very initiation of the case having been delayed substantially, there appears a hatching of the case and there is no truth in it. And,

accordingly, the learned counsel for the Petitioner canvassed for consideration of the bail application favourably.

6. Learned counsel for the State on the other hand referring to the statement of the victim recorded under Section 164, Cr.P.C. coupled with the narration in the F.I.R., submits that there is ample of material to fasten the Petitioner in the alleged offence and accordingly submitted for rejection of the bail.

7. Having regard to the allegation appeared in the complaint, which subsequently culminated to police report coupled with the statement of the victim girl recorded under Section 164, Cr.P.C., there appears substantial material to indicate the active involvement of the accused in the offence alleged, more particularly in respect of Sections 4 & 6 of the POCSO Act, and in such eventuality it is not desirable for this Court to grant anticipatory bail.

8. The ABLAPL stands dismissed accordingly.

(*Chittaranjan Dash*)
Judge

S.K. Parida