

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9505 of 2021

Prakash Pradhan

....

Petitioner

Mr. S.K. Jena, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. A. N. Pradhan, Additional Standing Counsel

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

12.01.2022

Order
No.

01. 1. This matter is taken up through video conferencing mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. This is an application under Section 439 of Cr.P.C for grant of bail to the petitioner in connection with Kandarpur P.S. Case No.186 of 2021 registered under Section 376(2)(n), 328 and 506 IPC corresponding to G.R. Case No.1831 of 2021 pending in the file of learned J.M.F.C.(R), Cuttack on the grounds stated therein.
4. Perused the FIR and impugned order dated 28.09.2021 as at Annexure-2.
5. Gone through the contents of the FIR.
6. Learned counsel for the petitioner submits that the present accused is a cousin of the informant victim aged about 40 years separated from her husband. It is further submitted that the statement of the victim recorded under Section 161 Cr.P.C., a copy of which is at Annexure-3, does reveal that she and the accused

were having prior acquaintance and considering the fact that they have settled the matter in the meantime which is supported by an affidavit filed by the victim, the petitioner should be enlarged on bail with any conditions which is objected to by the learned counsel for the State on the ground that allegation of rape has been made by the victim and that apart, it is a non-compoundable offence. The learned counsel for the informant submits that the victim sworn the affidavit dated 27.12.2021 claiming amicable settlement between them. The said affidavit is filed in the Court along a memo which reveals that on the intervention of the well wishers, the parties reached at a settlement.

7. The details of the circumstances under which the victim was subjected to forcible sexual intercourse has been narrated by her in Annexure-3 and how she had become pregnant on account of alleged mischief by the petitioner. It is revealed from Annexure-3 that the petitioner being the cousin was in visiting terms to the in-laws house of the informant and thereafter, established physical relationship the latter.

8. Taking into account above facts and circumstances leading to the lodging of FIR and the recent development which is claimed to have taken place by filing of an affidavit, the Court is of the considered view that the accused, who is in custody should be released on bail with conditions and accordingly, it is ordered.

9. In the result, the petitioner is allowed to go on bail on furnishing a bail bond of Rs.30,000/-(rupees thirty thousand) with one solvent surety for the like amount to the satisfaction of the learned court below in seisin over the matter, who shall impose such other conditions, as deemed just and proper, in the facts and circumstances.

10. The BLAPL is disposed of.

11. As the restrictions due to the COVID-19 situation are continuing, learned counsel for the parties may utilize a soft copy of this order available in the High Court's website or print out thereof at par with certified copy in the manner prescribed, vide Court's Notice No.4587, dated 25 March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(R.K. Pattanaik)
Judge

TUDU

