

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9519 of 2021

Mithun Mallik

.... ***Petitioner***
Mr. D.K. Sahoo, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. K.K. Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

Order No.

ORDER
18.05.2022

- 03.
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 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.
 4. This is an application under Section 439 of the Criminal Procedure Code.
 5. The Petitioner is an accused in Special G.R. Case No.96 of 2021 arising out of Marine P.S. No.58 of 2021 pending in the court of learned Additional Sessions Judge-cum-Special Judge, Kendrapara for commission of offence punishable under Sections 363/366/294/506/34, I.P.C. subsequently turned to Sections 363/376(2)(n)/376(3)/344/323/34, I.P.C. read with Section 6 of the POCSO Act.
 6. It is alleged that there was an intimacy developed between the parties and the proposal was for marriage and that the alleged

commission of rape was made.

7. Learned counsel for the petitioner submits that the petitioner is in custody since 25.08.2021 and in the meantime, investigation has been concluded and charge-sheet has already been submitted. He further submits that they have well known to each and the relation was developed between the victim and the petitioner and the fact was admitted by the victim in her statement recorded under Section 164, Cr.P.C.

8. Further, learned counsel for the petitioner submits that referring the statement of the victim recorded under Section 164 of the Cr.P.C. and 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.

9. 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.

10. Considering the surrounding facts and circumstances, materials on record, statement of the victim recorded under Section 164 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.

11. It is open for the court in seisin over the matter to impose other conditions may deem just and proper.

12. The Bail Application is accordingly disposed of.

Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge