

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9626 of 2021

Gobind Moharana

....

Petitioner

Mr. D. Das, Advocate

-versus-

State of Odisha

....

Opp. Party

*Mrs. Susamarani Sahoo,
Addl. Standing Counsel*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
11.11.2022**

Order No.

08. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

This is an application under section 439 of Cr.P.C. for grant of bail to the petitioner in connection with Kendrapara P.S. Case No.166 of 2020 corresponding to G.R. Case No.84 of 2020 pending in the Court of learned Addl. Sessions Judge -cum- Special Judge, Kendrapara for alleged commission of offences under sections 376AB/506 of the Indian Penal Code and section 6 of the POCSO Act.

The petitioner moved an application for bail before the Court of learned Addl. Sessions Judge -cum- Special Judge, Kendrapara, which was rejected on 07.06.2021.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 20.10.2022 and he was charge sheeted under sections 376AB and 506 of the Indian Penal Code and section 6 of the POCSO Act. He further submitted that the earlier bail application of the petitioner in BLAPL No. 8088 of 2020 was rejected as per order dated 09.03.2021 mainly taking into account the age of the victim and her 164 Cr.P.C. statement and the petitioner was given liberty to renew the prayer for bail after examination of the victim in the learned trial Court. Learned counsel further submitted that not only the victim but also her aunt, who is the informant in the case have been examined as P.W.6 and P.W.5 respectively in the learned trial Court and they have not supported the prosecution case and therefore, in view of the change in the circumstances, the bail application of the petitioner may be favourably reconsidered. Learned counsel for the petitioner has filed the deposition copies of the aforesaid two witnesses with a memo, which are taken on record.

Learned counsel for the State was supplied with the copies of the deposition of the aforesaid two witnesses and after verifying the same, she fairly submitted that the star witness on behalf of the prosecution has turned hostile.

Considering the submissions of the learned counsel for the respective parties, the change in the circumstances after rejection of the earlier bail application, since the victim and the informant have not supported the prosecution case and further taking into account the period of detention of the petitioner in judicial custody, I am inclined to reconsider the

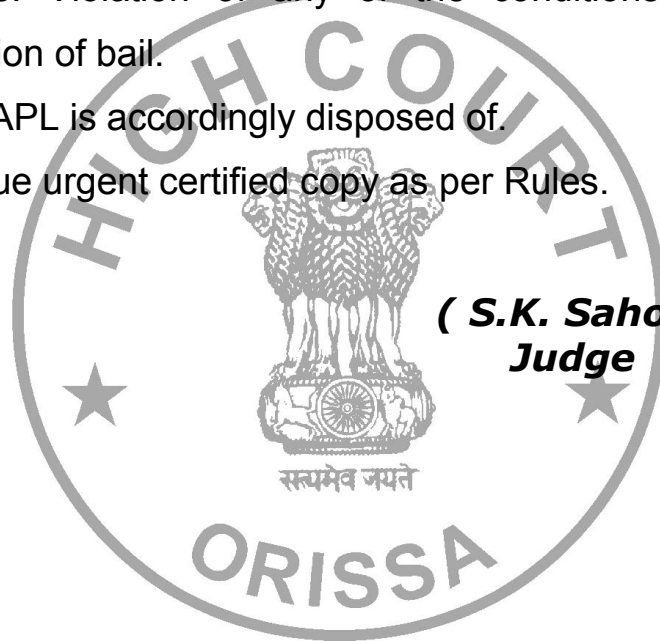
prayer for bail and direct release the petitioner on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000/- (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with such terms and conditions as the learned Court may deem just and proper including the conditions that the petitioner shall not indulge in any criminal activities, shall appear before the learned trial Court when the case would be posted for trial and shall not try to tamper with the prosecution witnesses. Violation of any of the conditions shall entail cancellation of bail.

BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge



PKSahoo