

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10970 of 2022

Gurudev Deep

....

Petitioner

Mr. T. Nanda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

06.12.2022

Order No.

01.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is an accused in Spl. G.R. Case No.28 of 2022, pending in the file of learned Special Judge (POCSO), Bolangir, arising out of Bolangir Sadar P.S. Case No.160 of 2022, for commission of alleged offences under Sections 363/ 376(2)(n)/ 506/323/34 of IPC read with Section 6 of POCSO Act.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned A.D.J.-cum-Special Court under POCSO Act, Balangir by order dated 05.09.2022 in the aforementioned case, the present BLAPL has been filed.
4. Perused the order of rejection and deposition of victim-P.W.2.
5. It is submitted by the learned counsel that from the tenor of the deposition, the allegations so far as Section 376(2)(n) of IPC

qua the petitioner is not at all made out. Hence, he be released on bail.

6. Submission which is being made at the bar militates against the settled position of law that during currency of trial, this Court is not to make a microscopic examination of the statement of the victim more so in a case of this nature.

7. So this Court is not persuaded to consider the submissions made that even if the entire allegation of the prosecution is accepted at its face value, no case under Section 376 (2)(n) of IPC and other allied sections is made out.

8. Hence Court is not persuaded to consider the bail application at this stage. The same accordingly stands rejected.

9. Since the petitioner is in custody since 23.04.2022, learned Court in seisin is called upon to conclude the trial within a period of two months from the date of receipt/production of certified copy of this order.

10. In the event trial is not concluded within the time stipulated, it shall be open to the petitioner to renew his prayer before the learned Court in seisin and the same shall be considered on its own merits without being influenced by the earlier rejection or the order passed by this Court.

11. Registry is requested to communicate this order.

12. Accordingly, the BLAPL stands disposed of.

13. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge