

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.630 of 2020

Santosh Parua

.... ***Appellant***
Mr.B.K.Ragada, Advocate

-versus-

State of Odisha & another

.... ***Respondents***
Mr.M.K.Mohanty,A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

29.03.2022

Order No.

9. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This appeal has been directed against the order dated 27.11.2020 passed by the learned Sessions Judge-cum-Special Court (POCSO) Sambalpur in Spl.G.R.Case No.416 of 2020 arising out of Katarbaga P.S.Case No.153 of 2020 in rejecting the bail petition filed by the appellant.
3. Heard learned counsel for the Appellant as well as learned Additional Standing Counsel.
3. The brief facts of the prosecution case is that on 03.09.2020 one Rasmita Baa, lodged an information before the I.I.C., Katarbaga P.S. alleging therein that on 02.09.2020 at 8.30 P.M. one Santosh Parua, who is a friend of her husband has been gone to Mangalpur. After that the Petitioner pulled her saree and pressed her mouth and committed sexual assault with her. When her husband came to her house she narrated the entire story. When he cried against him he

threatened him by showing a kitchen knife and out of fear her husband fled away.

4. It is submitted by the learned counsel for the Appellant that the Appellant is in custody since 04.09.2020 and the investigation of the case has been completed and charge sheet has been filed by the Police. It is further submitted that in view of the statements of the witnesses recorded under section 161 Cr.P.C. by the Police, the victim herself has admitted that the Petitioner is a friend of her husband and frequently he visits to her house and she has developed intimacy with the Petitioner and accordingly both of them are consenting partner to the alleged sexual conduct. He further submits that on the basis of the statement made by the victim in her 164 Cr.P.C. statement the case as alleged by the prosecution is not made out against the Appellant. The medical examination report does not support the stand of the victim as well as the prosecution case. He further submits that the Appellant is a local man having his residence in the village, there is no chance of his absconding and in the event he is released on bail, shall appear before the trial court on each and every date.

6. Learned Additional Standing Counsel vehemently opposes the prayer for bail of the Appellant on the ground that the allegations are serious in nature. He further urges that no leniency should be shown to the Appellant while granting bail to the Appellant.

7. Having heard the learned counsel for both the parties and considering the materials on record and the nature and gravity of the allegations as well as the statement of the victim and considering the period of custodial detention and the medical examination report submitted by the Doctor, I am inclined to release the Appellant on bail in the aforesaid case on furnishing a bail bond of Rs.30,000/-

(Rupees Thirty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions

- i) shall cooperate with the trial of the case and shall appear in court on each and every date to which the case is posted.
 - ii) shall not indulge in any offence of similar nature
 - iii) shall not threaten or terrorise the witnesses while on bail and also shall not try to make any contact, approach the victim or her husband
 - iv) Violation of any of the terms and conditions shall entail cancellation of bail.
8. The impugned order is set aside and the appeal is allowed.
9. Issue urgent certified copy as per Rules.

RKS

