

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10236 of 2021

Chema@ Goutam Behera

....

Petitioner

*Mr Amulya Ratna Panda,
Advocate*

-Versus -

State of Odisha

Opposite Party

....

*Mr. S.K. Mishra,
Addl. Standing Counsel*

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

02.02.2022

Order No.

3.

1. This matter is taken up through virtual mode.
2. Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State.
3. The petitioner is in custody since 07.03.2018 in connection in connection with Oupada P.S. Case No. 9 of 2018 corresponding to Special Case No. 58 of 2018 pending in the court of learned Additional District & Sessions Judge-cum- Special Judge, Balasore for the alleged commission of offence under Sections 363/366(A)/376(2)(i)(n)/506 of IPC read with Section 6 of the POCSO Act.
4. The allegation is that the petitioner kidnapped the victim, who was a minor girl at the time of occurrence, and forcibly kept her in his house and committed sexual intercourse on her against her will. Learned counsel for the petitioner has drawn attention of this Court to the statement of the victim recorded under Section 161 of Cr.P.C. to submit that there was a love relationship between them and

therefore the question of any coercion does not arise.

5. Learned Additional Standing Counsel, on the other hand, has opposed the prayer for bail by submitting that having regard to the age of the victim her consent or otherwise is immaterial.

6. Having considered the rival submissions, the period of detention already undergone and the fact there does not appear to be any likelihood of the trial being concluded in the near future, I am inclined to allow the prayer for bail. Let the petitioner be released on bail on such terms and conditions as the court in seisin over the matter may deem fit and proper to impose including the condition that he shall appear on each date of posting of the case, failing which necessary adverse order may be passed by the Court to secure his attendance.

7. The BLAPL is accordingly disposed of.

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

(Sashikanta Mishra)
Judge