IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10883 of 2021

Nabin Tom .... ***Petitioner***

Mr. S.K. Jena, Advocate

-versus-

State of Odisha .... ***Opp. Party***

Mr. Arupananda Das,
Addl. Government Advocate

CORAM:
JUSTICE S.K. SAHOO

ORDER

Order No. **11.02.2022**

01. 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. in connection with C.T. Special (POCSO) Case No.102 of 2020 arising out of Jajpur Road P.S. Case No.339 of 2020 pending in the Court of learned Adhoc Additional Sessions Judge -cum- Special Judge (FTSC), Jajpur for offences punishable under sections 366A/342/376(2)(n)/294/323/506/109/34 of the Indian Penal Code read with sections 6/18 of the POCSO Act and sections 4/5/6 of the Prevention of Immoral Traffic Act.

The petitioner moved an application for bail

before the Court of learned Adhoc Additional Sessions Judge (FTSC), Jajpur, which was rejected on 01.12.2021.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 28.08.2020 and his earlier bail application in BLAPL No.8474 of 2020 was rejected as per order dated 19.04.2021 taking into account the 164 Cr.P.C. statement of the victim. Learned counsel further submitted that in the meantime, the victim has been examined as P.W.1 in the trial Court and she has not supported the prosecution case, failed to identify the petitioner in the trial Court and specifically stated that as tutored by the police, she gave her 164 Cr.P.C. statement before the Judicial Magistrate. It is contended by the learned counsel for the petitioner that in view of the change in the circumstances, the bail application of the petitioner may be favourably reconsidered.

Learned counsel for the State opposed the prayer for bail and placed the deposition copy of the victim, which is annexed to the bail application as Annexure-2.

Considering the submissions made by the learned counsel for the respective parties, the period of detention of the petitioner in judicial custody and since the victim has not supported the prosecution case during trial being examined as P.W.1, I am

inclined to reconsider the prayer for bail and direct the petitioner to be released on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper subject to condition that the petitioner shall appear before the learned trial Court on each date when the case would be posted for trial.

Violation of any terms and conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

RKM

(S.K. Sahoo)
Judge