

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10935 of 2021

Lambe Munda	...	Petitioner Mr. S. Mukherjee, Advocate
	- Versus -	
State of Odisha	...	Opposite Party Mr. P. Tripathy, Addl. Standing Counsel

**CORAM:
JUSTICE SASHIKANTA MISHRA**

**ORDER
17.02.2022**

Order No.
1.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned Addl. Standing Counsel for the State.
3. The petitioner is in custody since 28.07.2020 in connection with Bamebari P.S. Case No.97 of 2020 corresponding to Special Case No.60 of 2020 pending in the Court of learned Addl. Sessions Judge-cum- Special Judge, Keonjhar for the alleged commission of offence under Sections 376(3)/376(2)(n)/506 of IPC and Section 6 of POCSO Act.
4. The prosecution allegation is that the petitioner committed sexual intercourse on the victim, who is a young girl, aged less than 16 years as on the date of occurrence.
5. It is submitted by learned counsel for the petitioner that as per the customary practice adopted by the tribal community (*Munda*) to which the parties belong, a girl, aged about 16 years, can also be given in marriage. It is further submitted that

the marriage between the petitioner and the victim has the consent of both the families, which is evident from the fact that both the victim and her father, after appearing in the Court below pursuant to notice issued to them, had clearly stated so and had also stated that they have no objection if the accused is released on bail.

6. Learned Addl. Standing counsel has opposed the prayer for bail by submitting that considering the age of the victim girl, no leniency should be shown to the petitioner. However, he fairly submits that it is permissible in tribal communities for such marriages to take place.

7. Considering the submissions as above, materials on record and the period of detention already undergone, 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 personally appear before the trial Court on each date of posting of the case without fail.

8. BLAPL is accordingly disposed of.

9. Issue urgent certified copy as per rules.

(Sashikanta Mishra)
Judge