

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11003 of 2021

Bharat Naik

.... ***Petitioner***
M/s. L. Achari, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s. D. Nayak, A.G.A.
Mr. S. Behera, Advocate
For Informant

CORAM:

JUSTICE G. SATAPATHY

ORDER

23.08.2022

Order No.

- 03.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Tarasingi P.S. Case No.37 of 2021 corresponding to G.R. Case No.36 of 2021 pending in the Court of learned Additional District Judge-cum-Special Court under POCSO Act, Berhampur for commission of offences punishable under Sections 366/376(2)(n)/376(3) of I.P.C. read with Section 6 of POCSO Act on the allegation of kidnapping and committing rape and penetrating sexual assault on the victim.
 3. In course of hearing of bail application, learned counsel for the Petitioner submits that the victim has raised different allegations at different stage of the case and when the deposition of the victim has already been recorded by the learned trial Court, there remains hardly anything to apprehend about tampering of evidence by the Petitioner. On these submissions, learned counsel for the Petitioner prays to

enlarge the Petitioner on bail.

4. On the contrary, learned counsel for the State while opposing the prayer for bail of the Petitioner submits that the victim was aged about 15 years and the allegations levelled against the Petitioner are serious in nature and therefore the bail application of the Petitioner shall be rejected.

5. Learned counsel for the informant submits that the informant and accused are known to each other and the victim has already levelled serious allegation against the Petitioner in the FIR as well as in her statement, and therefore, the Petitioner shall not be released on bail.

6. On coming back to the materials placed on record, it is found that the victim has already been examined by the learned trial Court and she has reiterated the allegation against the Petitioner for commission of sexual assault on her. Further, it reveals from the 164 statement of the victim that she is aged about 15 years. Moreover, there are allegations against the Petitioner for commission of rape and penetrating sexual assault on the victim in the FIR as well as statement of the victim.

7. In view of the aforesaid and taking into consideration nature and gravity of allegations levelled against the petitioner as well the age of victim and stage of the case so also character and strength of supporting materials and evidence for commission of alleged offences of rape and penetrative sexual assault on the victim, this Court does not consider it proper to enlarge the petitioner on bail. Hence, the bail application of the petitioner is hereby stands dismissed.

(G. Satapathy)
Judge

