

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11323 of 2021

Rahul Harijan

.... ***Petitioner***
Mr. Anirudha Das, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Sk.Zafrulla, A.S.C. for State

**CORAM:
JUSTICE A.K.MOHAPATRA**

**ORDER
27.01.2022**

Order No.

01. 1. This matter is taken up through Video Conferencing mode.
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Nabarangpur P.S. Case No.376 of 2021, corresponding to G.R. Case No.1084 of 2021, pending in the court of learned S.D.J.M., Nabarangpur, for commission of alleged offences under Sections 366/343/376(2)(n) I.P.C.
3. Heard learned counsel for the Petitioner and learned Additional Standing Counsel for the State. Perused the Case Diary and statement recorded by the police, particularly the statement of the victim girl recorded under Section 164 Cr.P.C.
4. The allegation of the prosecution in brief is that on 24.09.2021 at about 8.00 A.M., the Informant found that her daughter was absent in her house. It is further stated that the present Petitioner has kidnapped her daughter. Therefore a complaint was lodged before the Nabarangpur Police Station. Learned counsel for the Petitioner submits that Petitioner is in custody for a considerable period of time. He further submits that the victim has gone with the

Petitioner willfully and kept physical relationship with the Petitioner with her consent, as such, it is stated that Petitioner has not committed any wrong.

5. Learned counsel for the State submits that the victim girl is aged about 19 years and is a rustic woman. The Petitioner is a married man having children and that the allegations leveled against the Petitioner are very serious in nature. Learned counsel for the State further expresses his apprehension that in the event the Petitioner is released on bail, he may intimidate the victim and other witnesses.

6. Upon perusal of the Case Diary, this Court finds that the victim girl in her 161 statement recorded on 24.09.2021 had stated before the police that she knew the Petitioner earlier that Petitioner was a married person and he married to a distantly related person of the victim girl of her village. She has also stated that the victim girl is staying in the village since last 10 years and was working as a mason. The victim girl was working as a daily labourer under the Petitioner and she has candidly stated that she has love relation with the Petitioner and on the date of occurrence, the Petitioner with the consent of the victim took her to the house of his cousin sister and they cohabited there as per her wish.

7. In her 164 statement, the victim has almost repeated the fact as stated in her 161 statement. In her 161 statement, she has stated that while she was staying along with the Petitioner in the house of the Petitioner, the police recovered her.

8. The police in its forwarding report to the learned S.D.J.M., Nabarangpur has stated that the School Admission Register of the victim girl has been seized wherein, the date of birth of the victim is

mentioned as '10.03.2003' Therefore, on the date of occurrence, the victim was 18 years and 6 months old, as such, she is a major girl. Further the Medical Examination report of the victim girl does not reveal any injury mark rather the Medical Officer has opined that there was no history of sexual violence. However, the Medical Officer has opined that the hymen of the victim was ruptured.

9. Considering the aforesaid facts and circumstances of the case and the fact that the Petitioner is a local resident and is in custody for a substantial period, this Court inclines to release the Petitioner on bail on furnishing bail bond of Rs.30,000/- (Rupees Thirty thousand) with one solvent surety for the like amount to the satisfaction of the learned court in seisin of the matter. The bail order granted hereby is subject to conditions that the Petitioner shall cooperate with the investigation and shall not threaten the witnesses or tamper with the prosecution evidence in any manner, whatsoever. Further the Petitioner shall not threaten or influence the prosecution evidence in any manner by contacting the victim girl till conclusion of the trial. It is open for the court in seisin over the matter to fix any other condition(s) as would deem fit and proper in the facts and circumstances of the case.

10. With the aforesaid direction, the BLAPL is accordingly allowed.

11. As the restrictions due to resurgence of COVID -19 situation are continuing, learned counsel for the parties may utilize a print out 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 as modified by Court's Notice No.4798, dated 15th April, 2021 and Office Order dated 7th January, 2022.

(A.K. Mohapatra)
Judge

U.K.Sahoo

