

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11354 of 2021

Diku Sahu

.... ***Petitioner***
Mr. T.K. Sahu, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. P.K. Rout, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
13.07.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner, learned counsel for the informant and learned counsel for the State. Perused the F.I.R., case diary, the statement of the victim recorded under Section 164, Cr.P.C. as well as 161, Cr.P.C. and other relevant documents on record.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The petitioner is an accused in Spl. G.R. Case No.124 of 2021 arising out of Titilagarh P.S. No.364 of 2021 pending in the court of learned Additional Sessions Judge-cum-Special Court under POCSO, Bolangir for commission of offence punishable under Sections 376(3)/294/506/34, I.P.C. read with Section 6 of the POCSO Act.
5. The prosecution story, as per the F.I.R. lodged by the informant, is that since last eight years the petitioner deceitfully by giving false promise of marriage developed live arrairs with the victim who was child then and committed repeatedly sexual intercourse with her. But when the petitioner denied to marring the informant, namely,

Bhumisuta Bisi and the mother and father of the informant threatened to will with used filthy languages. Hence, this case.

6. It is submitted by learned counsel for the petitioner that the petitioner is in custody since 31.010.2021 and in the meantime, investigation has been concluded and charge-sheet has already been submitted by the Investigating Officer. Further, learned counsel for the petitioner submits that the victim was love relationship with the petitioner since last eight years. As per the statement of the victim recorded under Section 164, Cr.P.C., she has categorically stated the entire incident and that they are living as husband and wife. Further, learned counsel for the petitioner submits that there is no scope for absconding or fleeing away from the hands of the justice, as the petitioner is a permanent resident of the locality. As per medical examination report, there is no sign or symptom of recent sexual intercourse.

7. Learned counsel for the State, vehemently, opposes the prayer for bail of the petitioner on the ground that the alleged crime is heinous in nature. Therefore, he prays for rejection of the bail application of the petitioner. He also submits that in the event the petitioner released on bail, he might threaten / influence the prosecution witnesses particularly the victim. Further, he submits that in the event this Court is inclined to release the petitioner on bail, some stringent terms and conditions may be imposed and that he does not dispute the statement of the victim recorded under Section 164, Cr.P.C.

8. Having heard the learned counsels for the parties, considering the nature of allegation, statement of victim recorded under Section 164, Cr.P.C., materials are available on record and the period of custodial detention of the petitioner, it is directed that let the petitioner be released on bail on furnishing a bail bond of Rs.30,000/- (rupees thirty thousand) with two local solvent sureties each for the like amount

to the satisfaction of the learned court in seisin over the matter subject to conditions that :-

- I. The petitioner shall not be involved in any offence of similar nature;
- II. He shall not tamper with the prosecution evidence or make any attempt to threaten or influence the witnesses especially the victim or her family members in any manner whatsoever;
- III. He shall not make any default in attending the court during trial on each date; and
- IV. He shall not make any attempt to contact the victim and shall stay away from the victim and her family members.

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

9. It is open for the court in seisin over the matter to impose other conditions may deem just and proper.

10. The Bail Application is accordingly disposed of.

Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge