

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11450 of 2021

Ganesh Das

.... ***Petitioner***
Mr. D.J. Sahoo, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
Mr. S.N. Das, A.S.C.

CORAM:
JUSTICE G. SATAPATHY

ORDER
26.08.2022

Order No.

- 07.
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 Sadar P.S. Case No.309 of 2021 corresponding to Special Case No. 246 of 2021 pending in the Court of learned Special Judge, Balesore for commission of offences punishable under Sections 457/376/511 of I.P.C. and read with U/S.4 & 8 of the POCSO Act on the allegations of committing rape and penetrating sexual assault on the victim by trespassing into her house in the mid-night.
 3. In course of hearing of the bail application, learned counsel for the petitioner submits that the petitioner is an innocent person and he has not committed any crime and the victim having refused to undergo medical test in this case, it can safely be presumed that no sexual offence has been committed on the victim and the petitioner having detained in custody since 29.09.2021, may kindly be allowed

on bail.

4. Learned counsel for the State while opposing the bail application of the petitioner candidly submits that the victim has refused to undergo medical examination in this case, but the learned counsel for the State, however, by placing reliance on the statement of the victim submits that the victim is aged about 14 years and the act of the petitioner squarely covered under penetrating sexual assault and the petitioner thereby should not be allowed on bail.

5. On coming back to the materials placed on record, there appears no dispute about the release of the petitioner on interim bail and surrendering in the Court after availing the interim bail. Besides, as admitted, the victim has refused to undergo medical test and the petitioner is inside custody since 29.09.2021.

6. Considering the nature and gravity of accusations coupled with facts narrated above and regard being had to the pre trial detention of the petitioner as well as character, strength and evidence of supporting materials and keeping in view the pre trial detention of the petitioner since 29.09.2021 and no material being collected by the investigating agency to suggest that the petitioner would tamper evidence or abscond in case of enlargement on bail and taking into consideration the cherish object of personal liberty and refusal of victim to undergo medical examination, this Court considers the bail application of the petitioner favourably and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.50,000/- with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper with further condition that the petitioner shall attend the

trial Court on each date of trial without fail unless his attendance is dispensed with by the learned trial Court and shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

7. Accordingly, the BLAPL stands disposed of.
8. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

Subha

