IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9027 of 2024

Nagesh Katam ..... ***Petitioner***

Mr. R. L. Pattnaik, Advocate

Vs.

State of Odisha ..... ***Opp. Party***

Mr. U. C. Jena, A.S.C.

CORAM:

JUSTICE SAVITRI RATHO

ORDER

18.12.2024

(Through hybrid mode)

Order No. 05.

1. This is the fourth application of the petitioner under Section 439 of the Cr.P.C. filed in this Court in connection with Orkel P.S. Case No. 211 of 2023 corresponding to C.T. No. 141 of 2023 pending in the court of the learned Senior Civil Judge -cum-Assistant Sessions Judge, Women's Court, Malkangiri where the petitioner is facing trial for commission of offence punishable under Section 376 (2) (n) of the I.P.C. read with Section 67 (A) of I.T. Act.

2. BLAPL No. 10748 of 2023 filed by the petitioner had been disposed of on 05.10.2023 granting liberty to the petitioner to move the learned trial Court for bail afresh.

3. BLAPL No. 12648 of 2023 filed by the petitioner had been dismissed on 15.11.2023 granting liberty to the petitioner to

renew his prayer for bail before the learned Court below after examination of the victim girl.

4. BLAPL No. 4070 of 2024 filed by the petitioner before examination of the victim girl , had been disposed of on 09.08.2024 granting liberty to the petitioner to move the learned trial Court for bail afresh as the victim girl had been examined in the meanwhile on 26.04.2024.

5. Thereafter, the prayer for bail of the petitioner has been rejected by learned Sessions Judge, Malkangiri on 21.08.2024 observing that the trial is likely to be completed within a couple of months and also referring to the allegations against the petitioner which make out an offence under Section 67(A) of the IT Act.

6. The prosecution allegations in brief against the petitioner are that the petitioner had kept physical relationship with the victim giving her the assurance of marriage.

7. Perusal of the statement of the victim recorded under Section 161 Cr.P.C. reveals that she has stated that she was in love with the petitioner since 3 years. She had gone with the petitioner to his house and stayed there for two days and they had physical relations there a few times. The petitioner had taken photographs

and shot a video on his mobile without her knowledge. Although he had assured to marry her, he did not do so but sent her pictures to her brother and other friends. In the year, 2022, he had committed sexual assault on her without her will and consent.

8. Mr. R. L. Pattnaik, learned counsel appearing on behalf of the petitioner submits that the petitioner is in custody since 30.08.2023. Further he draws the attention of the Court to paragraph 15 and 22 of the cross-examination of the victim, who has been examined as P.W. 8. He also submits that the victim was aged about more than 18 years at the time of the occurrence and perusal of her depositions would reveal that she had confessed her love for the petitioner and has stated that she consented to have physical relationship with him on his assurance to marry her. He also submits that even if the allegations regarding sharing of intimate photographs of the victim are true, the said offence under Section 67(A) of the IT Act is punishable with imprisonment for a maximum period of 3 years.

9. Pursuant to issue of notice to the victim, the victim had appeared on virtual mode on 29.11.2024 from the police station and she had submitted that she is not interested to marry the petitioner and also objected to the prayer for bail stating that if he

is released on bail he is likely to harass her.

10. After considering the submission of the counsel, the nature of materials against the petitioner, the age of the victim, the apprehension expressed by her and the period the petitioner has remained in custody, I am inclined to allow the prayer for bail, but subject to appropriate conditions.

11. The petitioner Nagesh Katam, shall be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter, including the following conditions:

(i) He will not indulge in any criminal activity while on bail.

(ii) He will not threaten or try to influence prosecution witnesses or try to contact the victim.

(iii) He will remain present in the Court on each date fixed for trial.

12. Violation of any condition will entail in cancellation of bail/recall of this order.

13. No observation in this order shall influence the learned trial court as they have been made for the sole purpose of deciding this bail application.

14. The BLAPL is accordingly allowed.

(Savitri Ratho)
Judge

Subhalaxmi
Signature Not Verified
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Signed by: SUBHALAXMI PRIYADARSHANI SAHOO
Reason: Authentication
Location: Orissa High Court, Cuttack
Date: 06-Feb-2025 19:30:21