IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.12216 of 2024

Sunil Kumar Sethy @ Sethi .... Petitioner

Mr. M. Acharya, Advocate

-Versus-

State of Odisha and another .... Opposite Party

Mr. P.K. Mohanty, ASC

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
16.12.2024

Order No.

02. 1. Heard Mr. Acharya, learned counsel for the petitioner and Mr. Mohanty, learned ASC for the State.

2. This Court, by order dated 9th December, 2024, had directed the State to submit the statement of the victim recorded under Section 161 Cr.P.C. and other police papers, however, today, Mr. Mohanty, learned ASC submits that he has not received the same.

3. Mr. Acharya, learned counsel for the petitioner produced a certified copy of the victim's statement recorded under Section 161 Cr.P.C. to claim that it is a case of elopement, hence, therefore, the petitioner should be released on bail.

4. Even, in absence of the police papers and statement of the victim under Section 161 Cr.P.C. having not been produced, considering the submission of Mr. Acharya, learned counsel for the petitioner, who shared a certified copy of the said statement, the Court is inclined to dispose of the matter by the following order.

5. Instant petition under Section 439 Cr.P.C. is filed for release of the petitioner on bail in connection with G.R. Case No.77 of 2024 pending in the file of learned Additional District & Sessions Judge-cum-Special Court under POCSO Act, Kendrapara corresponding to Tantiapal Marine P.S. Case No.108 of 2024 on the grounds stated therein.

6. Mr. Acharya, learned counsel for the petitioner submits that the petitioner and the minor had been in a relationship and the latter, on her own joined the company of the former and was thereafter, rescued by her family and while claiming so, he refers to the certified copy of the statement under Section 161 Cr.P.C. that of the victim. It is submitted that since both developed relationship and stayed together on couple of occasions and thereafter, the victim was rescued and the accused is in custody from 14th September, 2024, he should be allowed to go on bail subject to any terms and conditions, but the same is strongly objected to by Mr. Mohanty, learned ASC on the ground that the victim is a minor aged about 16 years. No doubt, consent of minor is no consent in law but having regard to the fact that the victim developed friendship and thereafter, a relationship and even maintained sexual intimacy with the petitioner, as both of them, left the village and even travelled to different places at Bhubaneswar, considering the same, the Court is of the view that the petitioner should be enlarged on bail with following conditions.

7. Accordingly, it is ordered.

8. In the result, the petition under Section 439 Cr.P.C. stands disposed of with a direction to release the petitioner on bail in connection with G.R. Case No.77 of 2024 arising out of Tantiapal Marine P.S. Case No.108 of 2024 subject to him furnishing a bail

bond of Rs.30,000/-(rupees thirty thousand) with one solvent surety for the like amount to the satisfaction of the learned Additional District & Sessions Judge-cum-Special Court under POCSO Act, who shall impose such other suitable conditions as deemed just and proper in the facts and circumstances of the case besides the following, such as, he shall not commit any further mischief vis-à-vis the victim and influence other material witnesses, while on bail.

9. The BLAPL is disposed of.

10. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge

Rojina

Signature Not Verified
Digitally Signed
Signed by: ROJINA SAHOO
Designation: Junior Stenographer
Reason: Authentication
Location: OHC, CTC
Date: 16-Dec-2024 17:42:08