IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.12010 of 2024

Nibasi @ Chittaranjan @ Krishna Pradhan	....	**Petitioner** Mr. Manas Kumar Chand, Advocate

-versus-

State of Odisha	....	**Opp. Party** Mr.S.J.Mohanty ASC

CORAM:

JUSTICE SIBO SANKAR MISHRA

Order No.

01.

ORDER
09.12.2024

1. The petitioner is an accused in connection with Tangi P.S. Case No.103 of 2024 corresponding to T.R. Case No.51 of 2024 for the offences punishable under Sections 341/354/506/354-B/34 of the IPC read with Section 8 of the POCSO Act, pending in the Court of the learned Additional Sessions Judge-cum-Special Judge (POCSO), Bhubaneswar (Circuit Court at Khurda). The petitioner had approached the

learned Special Judge (POCSO)-cum-Additional Sessions Judge, Bhubaneswar (Circuit Court at Khurda) in T.R. No.51 of 2024 praying for grant of bail. The learned Court below vide its order dated 22.11.2024 rejected the bail application of the petitioner. Being aggrieved, the petitioner has filed the present petition under Section 439 of the Cr.P.C. praying for enlargement on bail.

2. Learned counsel for the petitioner, on instruction from the petitioner, submits that, except the present bail application, no other bail application of the petitioner is pending in any other Court relating to the aforesaid F.I.R.

3. The prosecution case is that, on 24.01.2024, the complainant lodged a report at the P.S. alleging that, when her minor daughter was returning to her house after marketing from the nearby shop, on her way, the present petitioner along with co-accused Tusar Sarkar wrongfully restrained her, pulled her hand, pressed her chest and outraged her modesty. When she shouted, the accused person threatened to kill her by pressing her neck. At that time, some people reached at the spot. Seeing them, the accused fled away from the spot. Hence, the F.I.R.

4. Earlier, the petitioner had approached this Court by filing BLAPL No.4717 of 2024. This Court, vide

while disposing the bail application vide order dated 12.09.2024, *inter alia*, observed as under:

> *"3. The allegation of the complainant is that on 24.01.2024 at 8 P.M., when her minor daughter was returning to her house after marketing from the nearby shop, on her way, the accused persons wrongfully restrained her, pulled her hand and pressed her chest as such out outraged her modesty. When she shouted, they threatened to kill her by pressing her neck. Hence, the F.I.R.*
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> *4. The statement of the victim girl, who is 16 years age at the time of the incident, who is also a blind girl has been recorded under Section 164 of the Cr. P.C. She, inter alia, stated that the petitioner and another person forcibly outraged her modesty.*
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> *5. Regard being had to the fact that the victim is a minor and blind girl and the petitioner and the other co-accused persons had taken advantage her vulnerability, I am not inclined to enlarge the petitioner on bail. However, liberty is granted to the petitio*ner to renew his bail plea, after examination of the victim."

Subsequent thereto**,** The evidence of the victim girl has been recorded as P.W.3 on 30.10.2024. The victim girl has, *inter alia*, stated as under:

> *"2. Ten months back one day I had gone to a shop situated near my home for purchasing vasline cream. At that time both the accused persons caught hold me by closing my mouth by my odhani and took me on their motorcycle to the cyclone shelter home where both the accused persons pressed my breasts and slapped on my ear and fled away from the spot. Then I returned to my home by crying and narrated about the incident before my mother. Thereafter my mother went to police station and lodged an FIR against them."*

The statement of the victim's father, who is the informant in the present case, has also been recorded as P.W.5. He, in his testimony has stated as under:

> *"2. Ten months back one day my daughter told before me that while she was returning after purchasing vasline from the nearby shop at that time the accused persons came, closed her month by the odhani and took her with them on a motorcycle to the cyclone shelter home. The accused persons slapped on her ear and pressed her neck and body. On the next day I went to Bhusandapur outpost under Tangi Police Station and lodged an FIR which was written by one of my co-villager against the accused persons. Ext.P7/PW5 is the said FIR."*

The testimony of the aforementioned two witnesses are corroborating with the testimony of the other witnesses. Therefore, in the nutshell, the allegation is, the petitioner has misbehaved with the girl. There is no allegation of penetrating sexual act committed by the present petitioner. The petitioner has been in custody since 05.02.2024.

5. The co-accused Tusar Sarkar has been granted bail by this Court vide order dated 09.12.2024 in BLAPL No.12016 of 2024.

6. Regard being had to the age of the petitioner, i.e., 28 years, the period of custody of the petitioner i.e. 06.02.2024 and the nature of the allegation against the petitioner, I am inclined to enlarge accused-Petitioner on bail.

7. Hence, the Petitioner is directed to be released on bail by the learned Court in seisin over the matter in the aforesaid case on such terms and conditions as it would deem just and proper, subject to the following

additional conditions:

(1) The petitioner will not be in contact with the victim girl during the period of bail.

(2) The petitioner shall appear before the Court diligently without fail, on every date of hearing;

(2) He shall not influence any of the witnesses related to this case in any manner whatsoever; and

(3) He shall not commit any offence while on bail.

In the event, the petitioner is found to be wanted for violation of any of the bail conditions imposed by this Court or the trial Court even on a single occasion, the prosecution is at liberty to move appropriate application before the Court below for cancellation of the concession of bail granted by this Court. If such application is filed, the trial Court should decide the application on its own merit.

8. The BLAPL is accordingly disposed of.

(S.S. Mishra)
Judge

Subhasis

Signature Not Verified
Digitally Signed
Signed by: SUBHASIS MOHANTY
Designation: Personal Assistant
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 12-Dec-2024 20:00:01