

(2024) 03 OHC CK 0216

Orissa High Court

Case No: Bail Application No. 96 Of 2024

Jagabandhu Bhatra

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision: March 27, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 439
- Indian Penal Code, 1860 - Section 323, 376(2)(i), 376(2)(n), 506

Hon'ble Judges: G. Satapathy, J

Bench: Single Bench

Advocate: A.Mishra, P.K.Mohanty

Final Decision: Disposed Of

Judgement

G. Satapathy, J

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is the second bail application U/S.439 of Cr.P.C. by the petitioner for grant of bail in connection with Kotpad P.S. Case No.11 of 2023 corresponding to C.T. Case No.39 of 2023 pending in the file of learned Adhoc Addl. Sessions Judge(FTSC), Jeypore, for commission of offences punishable U/Ss.376(2)(n)/376(2)(i)/323/506 of IPC, on the allegation of committing rape upon the victim repeatedly and threatening her.
3. In the course of hearing of bail application, Mr.A.Mishra, learned counsel for the petitioner by filing the certified copy of deposition of the victim submits that the evidence of victim is contradicted by her statement and therefore, no reliance can be placed upon such testimony of the victim and the petitioner having detained in custody since last more than one year may kindly be granted bail. In addition, Mr.Mishra by

highlighting the affidavit stated to be sworn in by wife of the petitioner, further submits that no bail application of the petitioner is pending before any other forum.

4. On the other hand, Mr.P.K.Mohanty, learned ASC, however, strongly opposes the bail application of the petitioner by inter alia contending that the petitioner is alleged to have committed rape upon the victim who is hard of hearing and therefore, the petitioner should not be enlarged on bail.

5. After having considered the rival submissions and taking into consideration the nature and gravity of offences as alleged against the petitioner, as also the accusations sought to be brought against him and regard being had to the pre-trial detention of the petitioner in custody since 10.01.2023 and there being no apprehension of tampering of evidence of material witness by the petitioner after examination of the victim, this Court without expressing any opinion on the merits of the case considers the bail application of the petitioner leniently by taking into consideration his pre-trial detention.

6. Hence, the bail application of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand) only 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 by it with following conditions:-

(i) the petitioner shall not commit any offence while on bail,

(ii) the petitioner in the course of trial shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with. In case the Petitioner fails without sufficient cause to appear in the Court in accordance with the terms of the bail, the learned trial Court may proceed against the Petitioner for offence U/S.229-A of IPC in accordance with law,

(iii) the petitioner shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case by giving his present address of stay and

(iv) the petitioner shall report attendance before the jurisdictional Police Station once in a fortnight preferably on 2nd Sunday of each month in between 10 A.M. to 12 Noon for six(06) months from the actual date of his release from the custody.

(v) the petitioner shall not in any way establish contact with the victim in any manner till disposal of the case.

The I.I.C. of Jurisdictional Police Station shall not detain the petitioner unnecessarily after recording his attendance beyond the time as stipulated.

It is clarified that the Court in seisin of the case will be at liberty to cancel the bail of the petitioner without further reference to this Court, if any of the above conditions are violated or a case for cancellation of bail is otherwise made out. In the wake of aforesaid, the subsequent involvement of the petitioner in future for grave/similar type of offences on prima facie accusations may be treated as a ground for cancellation of bail in this case.

7. Accordingly, the BLAPL stands disposed of.

8. Issue urgent certified copy of the order as per Rules.

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