

(2022) 01 OHC CK 0166
In the Orissa High Court
Case No : Criminal Appeal No. 876 Of 2019

Abhisekh Paswan

APPELLANT

Vs

State Of Orissa

RESPONDENT

Date of Decision : 24-01-2022

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 294, 323, 341, 342, 354, 363, 376, 395, 506
Protection of Children from Sexual Offences Act, 2012 — Section 6
Scheduled Castes And The Scheduled Tribes (Prevention Of Atrocities) Act, 1989 —
Section 2(u), 2(va), 3(1)(s) 3(1)(x), 3(1)(2)(v)

Citation : (2022) 01 OHC CK 0166

Hon'ble Judges : Savitri Ratho, J

Bench : Single Bench

Advocate : P.K.Routray, S.S.Pradhan

Final Decision : Dismissed

Judgement

Â Savitri Ratho, J

1. I have heard Mr. P.K.Routray, learned counsel for the appellant and Mr. S.S.Pradhan, learned Addl. Government Advocate through hybrid mode.

2. This is an application for grant of bail to the appellant-Abhisekh Paswan in connection with Barpali P.S. Case No.145 of 2019 corresponding to

C.T. Case No.23 of 2019 pending in the Court of the learned Addl. Sessions Judge-cum-Special Judge (POCSO) Act, Bargarh registered against the

appellant for commission of offence punishable under Sections 341/323/342 /395/294/354/363/120-B/376/506 of I.P.C. read with Section 6 of the

POCSO Act and Section 3 (1) (x) (s) and 2 (u) (va) of S.C.and S.T. (POA) Act.

3. The prayer for bail of the appellant has been rejected by order dated 28.10.2019 passed by the learned Addl. Sessions Judge-cum-Special Judge

(POCSO) Act, Bargarh.

4. Respondent No.3, the mother of the victim duly identified by the IIC., Barpali Police Station had appeared through Video Conferencing from the

Barpali Police Station and objected to the prayer for bail stating that pursuant to a plan to which the present appellant was a party, her minor daughter

had been raped.

5. Mr. P.K.Routray, learned counsel for the appellant submitted that there is no allegation against the appellant for commission of offence under

Section 376 I.P.C., but against one Babulu Nial who is still in custody. False allegations have been made against him due to previous enmity. The

allegation against the appellant is that the appellant along with other co-accused had obstructed the victim girl and her friend while returning from

village mela and snatched away Rs.500/- forcibly from them and detained them in their custody. At that time, the main accused Babulu Nial arrived at

the spot and took the victim girl assuring to drop in her house but instead of doing so, on the way, he committed rape on her. He further submits that

the two accused persons, namely, Sukru Padhan in BLAPL No.7581 of 2019 and one Bikash Rout in BLAPL No.6214 of 2019 who stand on similar

footing to that of the present appellant have been granted bail by this Court.

6. Mr. Pradhan, learned Addl. Government Advocate does not dispute the submission that the allegation against the appellant under Section 376 IPC

has not been made specifically against the appellant. But he submitted that the accused persons in a preplanned manner have committed the offence

but the victim unsuspectively fell into their trap for which the charge sheet has been submitted for commission of offence under Sections 341/

323/342/395/294/354/363/120-B/376/506 of I.P.C. read with Section 6 of the POCSO IPC along with Sections 3 (1)(2) (v) of the S.C. and S.T.

(POA) Act in the case.

7. Co-accused Sukru Pradhan does not stand on the same footing as the appellant and co-accused Bikash Rout has been released on bail on the

ground that co-accused has been released on bail.

8. Considering the respective submissions of the learned counsels, nature of allegations against the appellant, the punishment prescribed for the

offences alleged against him, I am not inclined to allow this appeal and to release the appellant on bail at this stage.

9. The appeal is accordingly dismissed. Trial of the case be expedited. Liberty is granted to the appellant to move the trial court for bail afresh after

examination of the victim girl.

10. In view of the restrictions due to resurgence of COVID-

19 situation, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy,

subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25 th March, 2020, modified by

Notice No.4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

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