

(2021) 11 OHC CK 0033

In the Orissa High Court

Case No : Bail Application No. 8186 Of 2021

Apu @ Jaga @ Prahallad Jena

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 03-11-2021

Acts Referred:

Code of Criminal Procedure, 1973 — Section 164
Indian Penal Code, 1860 — Section 363, 366, 376(2)(n)
Protection of Children from Sexual Offences Act, 2012 — Section 6

Citation : (2021) 11 OHC CK 0033

Hon'ble Judges : S.K. Panigrahi, J

Bench : Single Bench

Advocate : Soumya Rajan Das, L. Samantaray

Final Decision : Disposed Of

Judgement

S.K. Panigrahi, J

1. This matter is taken up through hybrid mode.
2. Heard Mr. Soumya Ranjan Das, learned counsel for the Petitioner and Mr. L. Samantaray, learned Additional Government Advocate for the State.
3. The Petitioner being in custody in Banpur P.S. Case No.239 of 2021 corresponding to TR Case No.301 of 2021, pending in the court of the learned Additional District and Sessions Judge, Bhubaneswar, registered for the alleged commission of offences under Sections 363/ 366/ 376 (2)(n) of the I.P.C. and Section 6 of the POCSO Act, has filed this petition for his release on bail.
4. As per the F.I.R. allegation, one Ashok Khatei, son of late Lakhan Khatei handed over a written report to the Inspector-In-Charge, Banpur that his 16 years daughter namely Liza Khatei had come to Balugaon Bazar to purchase a dress.

Thereafter, she did not return. Then the informant and his relatives searched in

different places, but they did not tress out her. Thereafter, at about 9 to 9 P.M., his daughter made a telephone call through mobile no.8260437054 that she was with her boy friend, namely, Apu Jena the present Petitioner.

5. Learned counsel for the Petitioner submits that though there was allegation regarding sexual harassment, the statement of the victim girl recorded under Section 164 of the Cr.P.C. does not reflect that there was physical relationship between the Petitioner and the victim girl. He further submits that the Petitioner has been falsely entangled in this case. The Petitioner is in custody since 17.07.2021. The trial has not yet commenced nor there is likelihood of completion of trial in near future.

6. Learned counsel for the State vehemently opposes the prayer for bail of the Petitioner.

7. A bare perusal of the records as well as the statement of the victim girl recorded under Section 164 of the Cr.P.C reveals that the Petitioner and the victim girl are in love relationship and there was no allegation of any sexual relationship.

8. Considering the facts and submissions made and on going through the materials available on record, further

keeping in view the surrounding circumstances including the period of detention of the Petitioner in custody without trial being commenced and there is a bleak chance of completion of trial in near future, it is directed that the Petitioner be released on bail with such terms and conditions as deemed just and proper by the court in seisin over the matter with further conditions that:-

- i. the petitioner shall appear before the learned trial court on each date of posting of the case;
- ii. he shall not indulge in similar activities in future;
- iii. he shall not threaten the victim girl and her family members; and
- iv. he shall not tamper the evidence of the prosecution witnesses in any manner.

Violation of any of the conditions shall entail cancellation of the bail.

9. Accordingly, the BLAPL is disposed of.

10. Urgent certified copy of this order be granted on proper application.

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