

(2023) 12 OHC CK 0121

In the Orissa High Court

Case No : Bail Application No. 10166 Of 2023

Krushna Chandra Kanhar @ Kaanr

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 20-12-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 363, 376(2)(n)
Protection of Children from Sexual Offences Act, 2012 — Section 6

Citation : (2023) 12 OHC CK 0121

Hon'ble Judges : Savitri Ratho, J

Bench : Single Bench

Advocate : Prahallad Sahoo, Dilip Kumar Sahu, D.K. Mishra

Final Decision : Dismissed

Judgement

Savitri Ratho, J

1. This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioner in connection with Boudh P.S. Case No. 08 of 2023 corresponding to C.T. Case No. 08 of 2023 pending in the Court of the learned Additional Sessions Judge-cum-Special Judge, Boudh registered for commission of offences punishable under Sections 376(2)(n), 363 of the IPC and Section 6 of the POCSO Act.

2. The prayer for bail of the petitioner has been rejected vide order dated 18.08.2023 passed by the learned Additional Sessions Judge-cum-Special Judge, Boudh in Special Case No. 04 of 2023 (POCSO Act) where it has been stated that the star witnesses examined so far have fully corroborated the prosecution story. It has also been stated that even if any consent was obtained from the victim, it amounts to no consent.

3. By order dated 18.09.2023, this Court had called upon the learned counsel for the petitioner to place on record the statement of the victim and her parents who

have deposed in the meanwhile. On 16.10.2023, adjournment had been prayed for to comply with the order dated 18.09.2023. On 08.11.2023, none had appeared for the petitioner when the matter was called and the case has been posted to today to give another chance to the learned counsel for the petitioner to comply with the earlier orders.

4. The depositions of the victim and her parents have still not been filed.

5. Mr. Prahallad Sahoo, learned counsel appearing on behalf of Mr. Dilip Kumar Sahu, learned counsel for the petitioner submits that the victim had gone voluntarily again with the petitioner for which no offence is made out against him.

6. Mr. D.K. Mishra, learned Additional Government Advocate submits that even though the victim may have stated that she left the house of her father with the petitioner as their family members were opposed to her relationships with the petitioner, as she was a minor on the date of alleged occurrence, her consent is no consent in the eye of law for which the offences against the petitioner are clearly made out.

7. As in spite of order of this Court the depositions of the victim and her parents have not been produced for perusal of the Court in spite of two adjournment, I am not inclined to adjourn the BLAPL any further.

8. The BLAPL is dismissed, granting liberty to the petitioner to move for bail afresh before the learned trial court in case there is delay in conclusion of the trial.

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

10. Learned Additional Sessions Judge-cum-Special Judge, Boudh is requested to dispose of the trial within a period of 6 months if there is no other legal impediment.

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