

(2021) 09 OHC CK 0084

In the Orissa High Court

Case No : Bail Application No. 1219 Of 2021

Mahabir Golechha @ Mahaveet Golechha

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 20-09-2021

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 342, 366A, 370, 370A, 372, 373, 376(3), 376(2)(n), 377
Immoral Traffic (Prevention) Act, 1956 — Section 4, 5, 6, 7
Information Technology Act, 2000 — Section 66E, 67B
Protection of Children from Sexual Offences Act, 2012 — Section 6, 17
Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 — Section 3(1)(w)(i), 3(2)(v), 3(2)(va)

Citation : (2021) 09 OHC CK 0084

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

Bench : Single Bench

Final Decision : Disposed Of

Judgement

S.K. Sahoo, J

This matter is taken up through Hybrid arrangement (video conferencing/physical Mode).

Heard learned counsel for the petitioner and learned counsel for the State.

Learned counsel for the State submits that notice has already been sent to the informant in the case to the Inspector in-charge of Malkangiri Police Station and after receiving the same, he has again re-sent it to the victim of the case, but he is unable to say whether notice already sent to the victim is sufficient or not. This case is pending before this Court since 12.02.2021 and the case has suffered number of adjournments and therefore, I am not inclined to adjourn the matter any further.

This is an application under section 439 of Cr.P.C. for grant of bail to the

petitioner in connection with Malkangiri P.S. Case No.456 of 2020 corresponding to T.R. Case No.56 of 2020 pending in the Court of learned Addl. Sessions Judge - cum-Special Judge, Malkangiri for alleged commission of offences under sections 370, 370-A, 366-A, 372, 373, 376(3), 376(2)(n), 377, 342/34 of the Indian Penal Code, sections 4, 5, 6 & 7 of the Immoral Traffic (Prevention) Act, 1956, sections 6 and 17 of POCSO Act, sections 66E and 67B of the Information Technology Act and sections 3(1)(w)(i), 3(2)(v) and 3(2)(va) of the S.C. & S.T. (POA) Act, 1989.

The petitioner moved an application for bail before the Court of Addl. Sessions Judge -cum-Special Judge, Malkangiri, which was rejected on 09.02.2021.

Learned counsel for the petitioner submits that the petitioner is in judicial custody since 27.12.2020 and charge sheet has been submitted for the offences under sections 370, 370-A, 366-A, 372, 373, 376(3), 342/34 of the Indian Penal Code, sections 4, 5, 6 & 7 of the Immoral Traffic (Prevention) Act, 1956, sections 6 and 17 of POCSO Act, sections 66E and 67B of the Information Technology Act and sections 3(1)(w)(i), 3(2)(v) and 3(2)(va) of the S.C. & S.T. (POA) Act, 1989. Learned counsel further submits that the co-accused, namely, Syudhanshu Sekhar Kurami @ Bonty has already been released on bail by this Court as per order dated 23.08.2021, copy of the bail order is annexed to the bail application. He further submitted that the victim in this case has already been examined as P.w.5 and she has not supported the prosecution case for which she has been declared hostile and in the cross-examination, she has specifically stated that whatever she has stated before the Magistrate was as per the instruction given by the police and the police obtained her signatures on plain papers and neither she was examined by the police in connection with this case nor she had any knowledge about the case. Learned counsel further submitted that in view of the available materials on record, the bail application of the petitioner may be favourably considered.

Learned counsel for the State opposed the prayer for bail.

Considering the submissions of the learned counsel for the respective parties, the nature of accusation against the petitioner and since the victim being examined as P.W.5 has not supported the prosecution case and taking into account the period of detention in judicial custody, I am inclined to release the petitioner on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000/- (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with further conditions as the learned Court may deem just and proper including the conditions that the petitioner shall not try to keep any contact with the victim, shall not try to tamper with the evidence and shall appear before the learned trial Court on each date to which the case would be posted for trial. Violation of any of the conditions shall entail cancellation of bail.

BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

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