



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.41 of 2025

(In the matter of application under Section 397 of the CrPC corresponding to Section 438 of BNSS r/w Section 401 of CrPC corresponding to Section 442 of BNSS).

Joseph Karada

...

Petitioner

-versus-

State of Odisha and another ... Opposite Parties

***For Petitioner : Mr. B.P. Tripathy, Sr.
Advocate along with
Mr. P. Agrawal***

***For Opposite Parties : Mr. S.K. Rout, Addl. PP
Mr. D.B. Rath, Advocate
on behalf of Mr. S.K.
Nayak, Advocate (OP-2)***

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:27.03.2025(ORAL)

G. Satapathy, J.

IA No.226 of 2025 & CRLREV No.41 of 2025

1. Since the matter has already been listed today in advance, the IA No.226 of 2025 filed for listing the matter in advance stands disposed of.

2. This Criminal Revision is directed against the impugned order dated 02.01.2025 passed by the



learned Presiding Officer Childrens Court-cum-Special Judge-cum-Addl. Sessions Judge, Paralekhmundi, Gajapati in Criminal Appeal No.02 of 2024 confirming the order dated 19.11.2024 passed learned Juvenile Justice Board, Gajapati in JR No.17 of 2024 in refusing to grant bail to the Child in Conflict with Law (CICL)-cum-petitioner in an application U/S.12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (in short, "the Act").

3. The allegation against the petitioner is for committing rape upon the victim aged about 14 years and, accordingly, Adava PS Case No.111 of 2024 corresponding to JR Case No.17 of 2024 has been registered against the CICL for commission of offence punishable U/Ss.65(1)/ 64(2)(m)/ 137(2)/ 296/ 351(3)/ 140(3)/ 3(5) of BNS r/w Section 6 of POCSO Act.

4. Heard Mr. Bibhu Prasad Tripathy, learned Senior Counsel appearing along with Mr. Partha Agrawal, learned counsel for the revision-petitioner, Mr.



S.K. Rout, learned Additional Public Prosecutor and Mr. Debi Baschalya Rath, learned counsel appearing on behalf of Mr. Suchit Kumar Nayak, learned counsel for the OPNo.2 and perused the record.

5. At the outset, Mr. Rath, learned counsel appearing for OPNo.2 while seriously opposing the prayer for bail also brings it to the notice of the Court that the petitioner is not a child, in terms of Section 2(12) of the Act by referring to the zimanama in which the date of birth of the petitioner has been shown to be 14.08.2005, but the date of occurrence is 13.06.2024. Be that as it may, the petitioner has been dealt with not only by JJB, but also the Chirdrens Court and he is in observation home since 17.08.2024, but charge-sheet has already been submitted without treating the petitioner as an adult, rather the petitioner has been shown as a CICL. This Court, however, impresses upon the concerned Court/Board in seisin over the matter to seek a report from the concerned Investigation Officer as to the age of the petitioner and deal the matter in accordance with law.



6. In view of the above facts and after having considered the rival submissions and on going through the materials placed on record including the statement of the victim by keeping in view the detention of the CICL-petitioner in Observation Home since 17.08.2024 even on the face of the age of the CICL as per the submission of the learned counsel for OPNo.2 and taking into consideration the Social Investigation Report (SIR) and Social Background Report (SBR) of the CICL-petitioner and regard being had to the mandate of Section 12 of the Act and there being no adverse report available against the petitioner-cum-CICL in terms of the provision of Section 12 of the Act, this Court without expressing any view on merits, considers it proper to admit the petitioner to bail subject to certain terms and conditions.

7. Hence, this Criminal Revision stands allowed on contest, but in the circumstance there is no order as to costs. Consequently, the impugned order passed by the learned Juvenile Justice Board, Gajapati and the Presiding Officer, Childrens' Court-cum-Special



Judge-cum-Addl. Sessions Judge, Paralekhmundi, Gajapati are, hereby, set-aside and the petitioner be admitted to bail on such terms and conditions as deems fit and proper by the learned Court/Board in seisin over the matter along with one condition that the petitioner shall not contact the victim or visit her house or her village till disposal of the case.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 27th day of March, 2025/Subhasmita*

Signature Not Verified

Digitally Signed
Signed by: SUBHASHMITA DAS
Designation: Sr. Stenographer
Reason: Authentication
Location: High Court of Orissa
Date: 28-Mar-2025 17:48:30

