



IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.8709 of 2025

Amaresh Jena @ Baiyan ... ***Petitioner***

*Mr. S.C. Mohapatra, Sr. Advocate
along with Mr. S. Mohapatra, Advocate
-versus-*

State of Orissa ... ***Opposite Party***

*Mr. P. Satpathy, Addl. PP
Mr. B.B. Choudhury, Advocate (informant)*

CORAM:
JUSTICE G. SATAPATHY

ORDER(ORAL)
17.10.2025

Order No.
03.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is a bail application U/S.483 of BNSS by the petitioner for grant of bail in connection with Laxmisagar PS Case No.394 of 2025 corresponding to TR Case No.388 of 2025 pending in the file of learned Addl. Sessions Judge, BBSR, (POCSO) for commission of offences punishable U/Ss.64(2)(m)/89/296/351(2) of BNS r/w Sec.6 of POCSO Act on the main allegation of committing rape and aggravated penetrative sexual assault upon the victim.
3. In course of hearing Mr. Soura Chandra Mohapatra, learned Sr. counsel who is being assisted by Mr. S. Mohapatra, learned counsel for the petitioner by placing reliance on the decision in Kunal Chatterjee Vrs. State of West Bengal & Ors. in Criminal Appeal No..... of 2025 arising out of Special Leave Petition (CRL.) No.7004



of 2025 submits that the present case is almost similar to the relied on case and, therefore, the present petitioner may kindly be granted bail.

3.1. In opposing the prayer for bail, Mr. Bibhuti Bhusan Choudhury, learned counsel for the informant however, submits that the petitioner is a influential person and he is extending threat to the victim and the petitioner being a habitual offender having some criminal antecedent to his credit should not be granted bail because the petitioner in that event would influence the witnesses and the victim would not get justice. Accordingly, Mr. Choudhury prays to reject the bail application of the petitioner.

3.2. In echoing the submission of Mr. Choudhury, Mr. P.Satpathy, learned Addl. Public Prosecutor by highlighting the criminal antecedent of the petitioner submits that not only the victim has been ravished by the petitioner, but also the petitioner has got checkered criminal history which would in fact affect the witnesses in case of his enlargement of bail. On the aforesaid submissions, Mr.Satapathy prays to reject the bail application of the petitioner.

4. After having considered the rival submissions upon perusal of record, there appears allegation against the petitioner for sexually exploiting the victim, but the victim has lodged the FIR for incident occurring in the month of September-2023 when she was aged about 17 years, but the FIR has been registered after 22 months of the first occurrence. It is no doubt true that



the petitioner has been shown to be involved in around 8 cases of the years 2015, 2016, 2018, 2022 and 2025, but all the offences shown against the petitioner are for some trivial offences except in one or two case for commission of offence U/S.307 of IPC. It is also not disputed that the petitioner is a political person, but it is contended for the victim that he is extending threat to her, however, when this Court posed a question to the learned counsel for the informant as to whether, any FIR has been lodged against the petitioner for extending threat to the victim, Mr. Choudhury candidly replies that no FIR has been registered.

5. Be that as it may, even if, it is considered that the petitioner is extending threat to victim, however, such threat perception can be eliminated from the mind of the victim by imposing appropriate conditions. In considering a bail application, detail analysis of evidence and meticulous examination of documents should be avoided and therefore, after having considered the rival submission and on going through the materials placed on record, more particularly by taking into account the statement of victim and keeping in view the fact that charge-sheet has already been submitted in the meantime and the petitioner having root in the society and the apprehension of the victim can be mitigated by imposing proper conditions and taking into account well-recognized principle of bail "bail is the rule, but jail is the exception", which emanates



from the inherent right of the accused to be presumed innocent until proven guilty at the trial, this Court without expressing any view on merit admits the petitioner to bail, but subject to certain conditions.

5. Hence, the bail application of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) only with one solvent surety for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper by it with following conditions:-

(i) the petitioner shall not leave the territorial jurisdiction of the trial Court without prior permission till disposal of the case by intimating his present address of stay to the concerned Court,

(ii) the petitioner shall not contact the victim either personally or through any other persons,

(iii) the petitioner shall not threaten the victim or her family members, so also influence/induce/coerce any of the witnesses acquainted with the facts of the case so as to dissuade them from disclosing such facts before the Court,

*(iii) the petitioner in the course of trial shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with. **In case the Petitioner fails without sufficient cause to appear in the Court in accordance with the terms of the bail, the learned trial Court may proceed against the Petitioner for offence U/S.269 of BNS, 2023 in accordance with law,***

(iv) the petitioner shall surrender his passport, if any (if not already surrendered),



and in case, he is not the holder of the same, he shall swear an affidavit to that effect. If his passport has already been seized or he has already surrendered his pass-port before the learned trial Court that fact should also be supported by an affidavit.

(v) the petitioner shall not visit to the house of the victim or the area in which the victim resides.

6. This Court, however, reserves liberty to the State and the informant to file appropriate application for cancellation of bail of the petitioner in case of violation of any of the above conditions. In the event, a case for cancellation of bail is otherwise made out against the petitioner, the learned trial Court is at liberty to pass appropriate order in accordance with the law without further reference to this Court.

7. Accordingly, the BLAPL stands disposed of.

8. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

Jayakrushna