5. 05.10.2020

This matter is taken up through Video Conferencing due to Lockdown in the wake of Pandemic COVID-19.

Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State.

This is an application under Section 439, Cr.P.C. for grant of bail to the petitioner in connection with Manamunda P.S. Case No.26 of 2020 corresponding to Special Case No.7 of 2020 pending in the court of learned Additional Sessions Judge-cum-Special Judge, Boudh for the alleged commission of offence under Section 363/376(2)(n) of the of the I.P.C. read with Section 4 & 6 of the POCSO Act.

Learned counsel for the petitioner submits that due to previous enmity the petitioner has been falsely implicated by the informant and he is an innocent person and no way involved in this case. It is the submission of the learned counsel for the petitioner that the medical evidence is silent with regard to the allegation of rape and charge-sheet has already been submitted in this case. The statement of the victim recorded under Section 164, Cr.P.C. reveals that the victim had some love affairs with the petitioner prior to lodging of F.I.R. The petitioner is in custody since 20.02.2020. Hence, the petitioner may be released on bail with suitable terms and conditions.

Learned Additional Standing Counsel for the State raises objection and submits that since the victim was

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rescued from the possession of the petitioner and subsequently lodged the F.I.R. and the victim is a minor aged about sixteen years. Since the accused is an influential person if he is released on bail, he may tamper with the evidence of the prosecution witnesses.

Considering the submissions made by the learned counsel for the parties, the materials available on record and the period of detention in custody and keeping in view the report of the Medical Officer and the statement of the victim recorded under Section 164, Cr.P.C. produced today by the learned Additional Standing Counsel, I am inclined to allow this bail application and direct that the petitioner be released on bail in the aforesaid case on such terms and conditions as would be deemed fit and proper by the learned trial court in addition to the following conditions:

- (i) he shall not commit similar offence or any other offence;
- (ii) he shall not directly or indirectly terrorize or threaten or try to influence the prosecution witnesses; and
- (iii) he shall not indulge in any sort of criminal activities while on bail

Violation of any of the above conditions would entail cancellation of bail of the petitioner.

The BLAPL is accordingly disposed of.

P. Patnaik, J.