

Braja Kishore Nath vs State Of Odisha Opp. Party on 5 February, 2024

Author: Savitri Ratho

Bench: Savitri Ratho

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 511 of 2024

Braja Kishore Nath	Petitioner
		Mr. Partha Sarathi Nayak, Adv.
	Vs.	
State of Odisha	Opp. Party
		Mr. S.S. Pradhan, A.G.A.

CORAM:
JUSTICE SAVITRI RATHO

ORDER

05.02.2024 Order No. (Through hybrid mode)

02.

1. Heard Mr. P.S. Nayak, learned counsel for the petitioner and Mr. S.S. Pradhan, learned Addl. Govt. Advocate for the State.

2. This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioner in connection with Mancheswar P.S. Case No. 523 of 2023 corresponding to C.T. Case No. 1539 of 2023 pending in the Court of the learned J.M.F.C.-II, Bhubaneswar registered for commission of offence punishable under Section 363 of IPC subsequently the case was turned to under Sections 636, 370(4), 120-B of IPC and charge sheet has been submitted in the meanwhile under Sections 636, 120-B of IPC against the petitioner and co-accused Saroj Kumar Mohanty and Section under Sections 636, 370(4), 120-B of IPC against co-accused Bishnu Ch. Prusty and Subrat Sethi-husbands of the informant.

3. The prayer for bail of the petitioner and co-accused Saroj Kumar Mohanty had been rejected by a common order dated 05.01.2024 by the Special Judge (CBI) Court No-I -cum- Addl. Sessions Judge, Bhubaneswar passed in BLAPL No. 2429 of 2023 and BLAPL No. 2430 of 2023 (filed by the present petitioner).

4. The prosecution allegation in brief is that the petitioner and co-accused Saroj Kumar Mohanty work in a sawmill in Khapuria. As the co-accused Saroj Kumar Mohanty was a childless person and wanted to adopt a child, the present petitioner gave information to him that Bishnu Ch. Prusty is willing to give his son in adoption. On 19.12.2023 when Subrat Sethi father of the child was standing

near the market, co-accused Bishnu Ch. Prusty along with the present petitioner came in a car and took the child from Subrat Sethi and handed over the child to the co-accused Saroj Kumar Mohanty. Investigation reveals that the informant had earlier been married to Bishnu Ch. Prusty and has been blessed with a child and thereafter, she fell in love with the co-accused Subrat Sethi and stayed with him and they were blessed with one son. There was a dispute between Subrat Sethi and his wife, when he came to know about her previous relationship. Thereafter, the Subrat Sethi and Bishnu Ch. Prusty conspired together that if the son of Subrat Sethi and the informant is taken away from the informant, she would go back to Bishnu Ch. Prusty. The FIR has been registered on 19.12.2023. The same day the child has been recovered and handed over to his mother-the informant.

5. Mr. P.S. Nayak, learned counsel for the petitioner submits that the petitioner is in custody since 19.12.2023. He further submits that the petitioner does not have any criminal antecedents, investigation has been completed in the child has been handed over to his mother, the informant on the same day i.e. 19.12.2023. In view of the nature of allegations, no case under Section 363 of the IPC is made out against the petitioner for which the petitioner may be released on bail. He further submits that co-accused Saroj Kumar Mohanty has been granted bail in BLAPL No. 133 of 2024 vide order dated 29.01.2024 by this Court.

6. Mr. S.S. Pradhan, learned Addl. Govt. Advocate for the State opposes the prayer for bail stating that the petitioner along with main accused Bishnu Ch. Prusty have kidnapped the child for which he should not be released on bail.

7. Considering the nature of allegations against the petitioner and as the child has been restored to his mother and investigation has been completed, I am inclined to allow the prayer for bail

8. The petitioner- Braja Kishore Nath shall be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter.

9. The BLAPL is accordingly disposed of.

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

(Savitri Ratho) Judge Sukanta Signed by: SUKANTA KUMAR BEHERA Designation: Senior Stenographer Reason: Authentication Date: 06-Feb-2024 20:56:42