

L.O.2/ 31.05.2022

Bail Application No.109/2022

(Arising out of G.R case no.261/2022 pending in the court of learned S.D.J.M, Athmallik corresponding to Athmallik P.S case no.69 dtd.19.03.2022 for the offence U/s.341/323/307 of IPC)

Pabitra Mahakud, aged about 47 years,
S/o. Purna Chandra Mahakud.
At- Nuagaon, P.S-Athmallik,
Dist- Angul.

....Accused/Petitioner.

Vrs.

State of Odisha.

....Opp. party.

This order arises out of a petition filed U/s.439 Cr.P.C.

2. The case of the prosecution runs thus:

On 19.03.2022, the informant lodged a written report before the officer-in-charge of Athmallik police station by stating therein that on the very day at about 5.30 pm while he was coming by his motor cycle, on the way near the village Canal accused Pabitra Mahakud taking previous political grudge assaulted on his head and two hands by means of wooden plank. As a result, he fell down on the ground and sustained bleeding injury on his head.

On such report, the police registered P.S case no.69 dtd. 19.03.2022 for the offence U/ss. 341/323/307 of IPC and started investigation. During investigation, the accused person was apprehended on 29.05.2022 and forwarded him before the court of the learned S.D.J.M., Athmallik who rejected the bail petition on the same day. On rejection of such bail petition, he filed this petition before this court.

3. It is submitted by the advocate for accused-petitioner that the accused-petitioner is an innocent and he has been falsely implicated in this case due to previous enmity. The injury sustained by the victim is not sufficient to cause death of a person in ordinary course of nature. Further one counter case is pending against the informant which was registered vide Athmallik P.S case no.70 dtd. 19.03.2022 for the offence U/s.341/294/506/297/337 of IPC. In the said counter case, the accused/victim Parameswar Behera has already released on bail. Further, the accused-petitioner is the law abiding persons and he is ready to abide any terms and conditions if imposed while he will be released on bail. Hence, he prayed to release the accused petitioner on bail with any condition as deems fit and proper

4. On the other hand, the learned Addl.P.P objecting the bail application of the accused-petitioner and submitted that the accused-petitioner may commit similar type of offence while on bail. He may abscond from the locality and may not attend before the court during the trial. The release of the accused-petitioner on bail would defeat ends of justice. Therefore, considering the

nature and gravity of the offence, the bail application of the accused-petitioner may be rejected.

5. Learned Advocate for the accused-petitioner has appended a certificate in the bail application to the effect that no bail has been filed or pending in any other court/courts or Hon'ble High Court of Orissa.

6. Perused the case record. The accused was arrested and forwarded before the court of learned S.D.J.M, Athmallik on dtd.29.05.2022 vide Athmallik P.S no.69 dtd. 19.03.2022 and one counter case was also filed against the informant vide Athmallik P.S case no.70 dtd.19.03.2022. The informant/victim has already released on bail. On the same day, the victim filed a compromise petition regarding settlement with the accused. The victim in his petition also stated that he does not want to proceed in this case. The forwarding report of the accused-petitioner does not reveal any criminal antecedent. The statement of the informant-victim has already been recorded. The medical report of the victim/informant reveals that all the injuries are simple in nature. Further, the accused-petitioner is permanent resident of village Nuagaon under Athmallik P.S which comes under the jurisdiction of this court for which there is less chance of his abscondence. He has been languishing in jail custody since 29.05.2022. In the mean time, he might have come across the rigor of law. Hence, considering the present facts and circumstances of the case, I am inclined to release them on bail. Accordingly, the bail petition filed by the accused/petitioners U/s.439 of Cr.P.C is allowed. Hence, it is ordered.

O R D E R

Let the accused-petitioner be released on bail by filing a bail bond of Rs.30,000/-(Rupees thirty thousand) with one solvent surety for the like amount to the satisfaction of the court of the learned S.D.J.M., Athmallik, subject to conditions as enumerated U/s.437(3) Cr.P.C along with the following:-

i. The accused-petitioner along with the bailor shall furnish their mobile numbers with the condition that such number shall not be altered till completion of trial.

Send back the L.C.R. to the court below forthwith.

Dictated.

Additional Sessions Judge,

Athmallik.