

O.4/ 26.12.2022

Bail Application No.360/2022

(Arising out of G.R case no.1207/2022 pending in the court of the learned S.D.J.M, Athmallik corresponding to Athmallik P.S case no.284 dtd.24.11.2022 for the offence U/s. 147/148/341/294/506/323/307/332/336/353/427/149 of IPC r/w Sec.7 CrI. Act & 3 PDPP Act.)

1.Banamali Mukhi, aged about 40 years.

S/o. Dhruba Mukhi.

2.Kajal Mukhi, aged about 34 years,

W/o. Baanamali Mukhi.

Both are of village-Puleswar,

P.S-Athmallik, Dist- Angul.

....Accused/Petitioners.

Vrs.

State of Odisha.

....Opp.party.

This order arises out of a petition filed U/s.439 Cr.P.C to release the accused/petitioners on bail.

2. The case of the prosecution runs thus:

On 24.11.2022, the informant-SI of police Athmallik P.S lodged a written report before the IIC, Athmallik police station by stating therein that on that day at about 5.15 pm while he along with ASI M.Mallik, ASI N.K.Behera, OAPF/126 B.Dejury and LHG S.Pradhan were proceeded to village Puleswar to apprehend the accused persons namely, Aman Mukhi, Situn Mukhi, Mitu Mukhi, **Banamali Mukhi**, Karan Mukhi, **Kajal Mukhi** and others in Athmallik P.S case no.283/2022 in their police vehicle bearing

Regd. No.OD-05-9995 being driven by H.G Driver A.Sahu. After arrival at village Puleswar, they conducted raid in the house of Banamali Mukhi to apprehend him and his son Situn Mukhi and wife Kajal Mukhi for interrogation. On seeing the accused Banamali Mukhi when they tried to apprehend him, he resisted and raised hulla. Then his wife Kajal Mukhi, son Situn Mukhi and daughter Archita Mukhi all joined with him being armed with lathi, axe and did not allow his arrest and tried to snatch him from their clutches. Hearing hulla, their supporter namely Rudramohan Mukhi, Pinku Mukhi, Mituhun Mukhi, Dhanamali Mukhi, Aman Mukhi, Karan Mukhi, Gabar Mukhi, Rukmuni Mukhi, Dhruba Mukhi and 10 to 15 others including ladies of village Liptinga also joined with the accused persons being armed with lathis and axe and encircled us and attempted to kill ASI Mithun Mallik and ASI Nirajkanta Behera by pressing their neck. They also assaulted them by means of lathi and snatched away the accused Banamali Mukhi from their clutches and threatened them to kill in life by abusing in obscene languages. Thereafter they pelted stones for which their police vehicle was damaged. But they managed to escape from the clutches of accused persons and returned to Athmallik P.S.

On such report, the police registered P.S case no.284 dtd.24.11.2022 for the offence U/s. 147/148/341/294/506/323/307/332/336/353/427/149 of IPC r/w Sec.7 CrI. Act & 3 PDPP Act and started investigation. During investigation, the accused/petitioners namely Banamali Mukhi and Kajal Mukhi

were apprehended on 20.12.2022 and forwarded to the court of the learned S.D.J.M., Athmallik who rejected their bail petition. On rejection of such bail petition, they filed this petition before this court.

3. It is submitted by the advocate for the accused-petitioners that the accused/petitioners are the innocent and they have been falsely implicated in this case. The injury sustained by the victim is not sufficient to cause of death of a person in ordinary course of nature. In order to harass the accused petitioners, the informant/SI of police, Athmallik foisted this case. The accused/petitioners are no way involved in this case. It further pleaded in his petition that the accused/petitioners are the permanent resident under Athmallik P.S which comes under the jurisdiction of this court for which there is less chance of their abscondance. The accused/petitioners are the law abiding person and they will abide any term and condition if imposed by the court while release them on bail. Hence, he prayed to release the accused/petitioners 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/petitioners submits that the accused/petitioner is very much notorious and ill reputed in the locality. The accused Banamali Mukhi is involved in Athmallik P.S case no.40 dtd.28.05.2009 U/s. 47(A) of Odisha Excise Act, Athmallik P.S case no.06 dtd. 07.02.2011 U/s. 380/34 IPC, Athmalik P.S case no.58 dtd. 08.04.2022 U/s.447/427/294/506/34 of IPC and Athmallik P.S case no.283 dtd. 24.11.2022 U/s. 147/148/294/323/307/506/149 IPC. The release of the

accused/petitioners on bail would defeat ends of justice. Therefore, considering the nature and gravity of the offence, the bail application of the accused/petitioners may be rejected.

5. Learned Advocate for the accused/petitioners 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 and up to date C.D Prosecution case is that the I.O lodged this case against the accused/petitioners as they create nuisance with police officials while the police officials were proceeded for investigation in G.R case no.283/2022. Further it is not imaginary to assault the police officials or damage the police vehicle by the public so it can create a great doubt as the said case is falsely foisted by the informant-SI Chanchala Nayak, Athmallik. Further the I.O submitted that the victims have already examined by the MO, S.D.H., Athmallik on the date of occurrence. The medical report of the victims reveals that all the injuries are simple in nature. Further, the accused/petitioner namely, Banamali Mukhi and Kajal Mukhi are in jail custody since 20.12.2022. In the mean time, they might have come across the rigors of law. Accused Kajal Mukhi is a lady and both the accused/petitioners are permanent resident under Athmallik P.S which comes under the jurisdiction of this court for which there is less chance of their absconding. On the other hand, the accused Banamali Mukhi is involved in **Athmallik P.S case no.40 dtd.28.052009 U/s. 47(A) of Odisha Excise Act, Athmallik P.S case no.06 dtd. 07.02.2011 U/s. 380/34 IPC,**

Athmalik P.S case no.58 dtd. 08.04.2022
U/s.447/427/294/506/34 of IPC and Athmallik P.S case no.283
dtd. 24.11.2022 U/s. 147/148/294/323/307/506/149 IPC. Hence,
considering the present facts and circumstances of the case, status
of the case, I am inclined to release the accused Kajal Mukhi on
bail. Accordingly, the bail petition filed by the accused/petitioner
Kajal Mukhi U/s.439 of Cr.P.C is allowed and the bail petition
against the accused **Banamali Mukhi** stands rejected. Hence, it is
ordered.

O R D E R

Let the accused/petitioner namely, **Kajal Mukhi** be
released on bail by furnishing a bail bond of Rs.25,000/-(Rupees
Twenty five Thousand) with one solvent surety for the like amount
to the satisfaction of the learned S.D.J.M., Athmallik, subject to
conditions that:-

- (i) The accused/petitioner shall not commit similar types
of offences while on bail.
- (ii) She shall not threaten the informant or any other
prosecution witnesses in any manner.

And the bail petition against the accused petitioner namely
Banamali Mukhi stands rejected.

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

Dictated.

Additional Sessions Judge,
Athmallik.