

(2023) 12 OHC CK 0122

In the Orissa High Court

Case No : Bail Application No. 10230 Of 2023

Ekadusia Behera @ Akadusia Behera

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 20-12-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 161, 439
Indian Penal Code, 1860 — Section 294, 307, 324

Citation : (2023) 12 OHC CK 0122

Hon'ble Judges : Savitri Ratho, J

Bench : Single Bench

Advocate : Umesh Chandra Jena, D.K. Mishra

Final Decision : Disposed Of

Judgement

Savitri Ratho, J

1. In his statement recorded under Section 161 of Cr.P.C. on 20.08.2023, the injured has stated that though he has been discharged, he is still unwell and is suffering from pain in the head for which the report had been called for.
2. A report has been submitted by the IIC, Barkote dated 26.11.2023 where she has stated that she personally visited the house of the injured and found him to be physically fit. However the date on which she visited his house has not been mentioned. Copy of the report is taken on record.
3. This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioner in connection with Barkote P.S. Case No. 241 of 2023 corresponding to C.T. Case No. 839 of 2023 pending in the Court of the learned S.D.J.M., Deogarh registered for commission of offences punishable under Sections 294, 324, 307 of IPC.
4. The prayer for bail of the petitioner has been rejected vide order dated 01.09.2023 passed by the learned Sessions Judge, Deogarh in BLAPL No. 140 of

2023.

5. The prosecution case in brief against the petitioner is that on 08.08.2023 at about 7.00 P.M., when the victim was working on his paddy field, the petitioner came to the spot and abused him in obscene language and assaulted him by means of a stick and when he fell down the petitioner assaulted him with the spade on his head and ear for which he sustained bleeding injuries and fell down unconsciously. Thereafter he was taken to CGC, Barkote for treatment from where he was referred to DHH, Deogarh for better treatment and subsequently shifted to BIMSAR as his condition became critical. The injury is sustained by him were found to be grievous in nature.

6. Mr. U.C. Jena, learned counsel for the petitioner submits that the petitioner does not have any criminal antecedents. On the relevant day as the informant injured was trying to cut the ridge between the fields in order to release the water from the field of the petitioner into his own field, the petitioner got enraged and assaulted him. He further submits that in the meanwhile the injured has become fully fit and is carrying out his normal activities and after completion of investigation, chargesheet has been submitted.

7. Considering the genesis of the occurrence and the relationship of the petitioner and the injured-informant, as the investigation has been completed, and the submission that the injured has recovered from his injuries and is carrying out his normal activities, I am inclined to allow the prayer for bail.

8. The petitioner-Ekadusia Behera @ Akadusia Behera shall be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter, subject to verification of his criminal antecedents and subject to the satisfaction of the learned S.D.J.M., Deogarh after issuing notice to the injured and verifying that he has fully recovered and is carrying out his normal activities, including the following conditions:

(i) He will not indulge in any criminal activity while on bail.

(ii) He will not threaten or try to influence prosecution witnesses while on bail.

(iii) He will not tamper with the evidence.

9. Violation of any condition will entail in cancellation of bail/ recall of this order.

10. The BLAPL is accordingly disposed of.

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

12. Copy of this order be supplied to Mr. D.K. Mishra, learned Additional Government Advocate for onward transmission to the IIC, Barkote Police Station.

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