

(2023) 08 OHC CK 0193
In the Orissa High Court
Case No : Bail Application No. 8489 Of 2023

Ijaz Ansari @ Ajaj Ansari

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 28-08-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 294, 302, 341, 506

Citation : (2023) 08 OHC CK 0193

Hon'ble Judges : G. Satapathy, J

Bench : Single Bench

Advocate : P.S.Nayak, S.R. Roul

Final Decision : Disposed Of

Judgement

G. Satapathy, J

BLAPL No.8489 of 2023 & BLAPL No.8493 of 2023

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Since both these bail applications arise out of one and same case record and the counsel appearing in both these cases being one, these two bail applications are heard together and disposed of by this common order with consent of the learned counsel for the parties.
3. Both these bail applications are U/S. 439 of Cr.P.C. by the petitioners for grant of bail in connection with Bisra P.S. Case No.149 of 2022 corresponding to G.R. Case No. 855 of 2022 pending in the Court of learned JMFC(R), Rourkela for commission of offences punishable under Sections 341/294/506/302/34 of the IPC, on the allegation of attacking the deceased resulting in his death.
4. In the course of hearing of the bail applications, Mr.P.S.Nayak, learned counsel for the Petitioners in both these bail applications, submits that the present petitioners have been implicated in this case only on the basis of perfunctory

materials and even if the materials on record are taken into consideration, no offence U/S. 302 of IPC is attracted against any of the two petitioners since there is only allegation against the present petitioners for assaulting the deceased in a spur of moment by means of a bamboo stick and the deceased died after fourteen days of the occurrence and the main allegation of assault on the face of the deceased by means of a stone is directed against the co-accused Niyaz Ansari and Sayaz Ansari and the petitioners having detained in custody since 12.07.2023 may kindly be granted bail.

5. On the other hand, Mr. S.R.Roul, learned ASC, however, strongly opposes the bail application of the petitioners and he inter-alia submits that there is ample allegation against the petitioners for assaulting the deceased by means of a bamboo stick and to that effect, he drew the attention of the Court to the statement of one Zesan Ali. Learned ASC, accordingly, prays to reject the bail application of the petitioners.

6. After having considered the rival submissions made and taking into consideration the nature and gravity of accusations raised against the petitioners and keeping in view the manner and circumstance of implication of the present petitioners and regard being had to the allegation against the petitioners for assaulting the deceased by means of a bamboo stick and keeping in view the opinion of the doctor as to cause of death of the deceased in the post mortem report and further taking into account the fact that the deceased died after fourteen days of the occurrence and the main allegation of assault on the face of the deceased by means of stone being directed against the co-accused Niyaz Ansari and Sayaz Ansari and further taking into account the pretrial detention of the petitioners since 12.07.2023 with submission of charge sheet and grant of bail to co-accused Hasim Ansari and Aiyaz Ansari in BLAPL Nos. 4744 and 3896 of 2023, this Court admits the petitioners to bail.

7. Hence, the bail application of the petitioners stand allowed and the petitioners are allowed to go on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand) each with two solvent sureties for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper by it with following conditions:-

(i) the petitioners shall attend the trial Court on each date of posting without fail unless their attendance are dispensed with.

(ii) the petitioners shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

(iii) the petitioners shall report attendance before the Jurisdictional Police Station once in a week preferably on Sunday of every month in between 10 A.M. to 12 Noon for six(06) months from the actual date of their release from the custody.

The I.I.C. of Jurisdictional Police Station shall not detain the petitioners unnecessarily after recording their attendance beyond the time as stipulated.

It is clarified that the Court in seisin of the case will be at liberty to cancel the bail of the petitioners without further reference to this Court, if any of the above conditions are violated or a case for cancellation of bail is otherwise made out. In the wake of aforesaid, the subsequent involvement of the petitioners for any offence in future on prima facie accusations may be treated as a ground for cancellation of bail.

8. Accordingly, both the bail applications stand disposed of.

9. Urgent certified copy of the order be granted on proper application.

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