

(2023) 12 OHC CK 0127
In the Orissa High Court
Case No : Bail Application No. 12251 Of 2023

Lokanath Paikaray

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 20-12-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 294, 307, 323, 341, 506

Citation : (2023) 12 OHC CK 0127

Hon'ble Judges : Savitri Ratho, J

Bench : Single Bench

Advocate : R.R. Ray, S.K. Samantaray, B.K. Ragada

Final Decision : Disposed Of

Judgement

Savitri Ratho, J

1. Mr. R.R. Ray, learned counsel has appeared for petitioner no.1 on the basis of prisoner's petition received from the jail.

2. Heard Mr. R.R. Ray, learned counsel for the petitioner no.1 and Mr. S.K. Samantaray, learned counsel for the petitioner no.2 and Mr. B.K. Ragada, learned Addl. Government Advocate for the State.

3. In spite of order dated 01.11.2023 directing the learned Addl. Govt. Advocate to obtain the case diary and injury report and to instruct the investigating officer to obtain the injury report in proper format from the medical officer who has conducted the examination of the injured, the same injury report of Aditya Samantasinghar has been sent along with the case diary which has been received on 08.12.2023 in the Office of the learned Advocate General. In this injury report the word grievous hurt has been mentioned and the word sharp weapon used has been mentioned but neither the site of the injury or the size of the injury has been mentioned. The name of designation of the doctor who issued the report is not mentioned clearly. The entries in report are difficult to

read.

4. The I.I.C., Khurda Model Police Station S.K. Nayak is directed to show cause why proceeding for contempt shall not be issued to against him for not complying with the order dated 01.11.2023.

5. List this case on 04.01.2024 along with his reply.

6. This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioners in connection with Khurda P.S. Case No. 0642 of 2023 corresponding to G.R. Case No. 920 of 2023 pending in the Court of the learned S.D.J.M., Khurda registered under Sections 341, 323, 294, 307, 506, 34 of IPC.

7. The prayer for bail of the petitioners had been rejected vide order dated 19.10.2023 passed by the learned 1st Addl. Sessions Judge, Khurda in BLAPL No. 502 of 2023.

8. After perusal of the injury report of Aditya Samantasinghar which is available in the case diary produced by Mr. B.K. Ragada, learned Addl. Government Advocate for the State, I find the observations of the learned 1st Addl. Sessions Judge, Khurda that the injury report lacks clarity as the body part on which the injury was found, size of the injury, age of the injury is not mentioned.

9. The prosecution allegation in brief is that on 01.10.2023 in the evening when the informant was in his house he was called by some people over telephone questioning him as to why he had abused them over telephone. The informant denied the allegations. But when he went to the spot, ten persons attacked him. One Pradeep Paltasingh assaulted him with a stick for which he sustained injury on his hand. Lokanath Paikaray assaulted him by a Bhujali on his hand. They abused him in filthy language and they also assaulted one Abhisek Sahoo with thenga.

10. From the statement of the witnesses in the case diary, it appears that the injured Aditya Samantasinghar has sustained one injury on his hand which as per the case diary is grievous and caused by petitioner no.1 Lokanath Paikaray. Abhisek Sahoo has sustained a simple injury.

11. Learned counsel for the petitioners submits that the petitioners are in custody since 02.10.2023 and in the meanwhile, substantial part of the investigation is over and since they are students and have no criminal antecedents, their prayer for bail may be sympathetically considered.

12. Mr. S.K. Samantaray, learned counsel for the petitioner no.2 Pradeep Paltasingh has filed I.A. No. 1683 of 2023 praying for interim bail wherein it is stated that the petitioner no.2 is a student of 3rd Semester in Einstein School of Engineering and his practical exams will commence from 22.12.2023.

13. Considering the age of the petitioners the submission that they are students and have no criminal antecedents, I am inclined to allow the prayer for bail.

14. Let the petitioners- Lokanath Paikaray and Pradeep Paltasingh be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter and subject to verification of their criminal antecedents, including the following conditions:

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

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

(iii) They will cooperate with the investigation.

15. Violation of any condition will entail in cancellation of bail.

16. The BLAPL and I.A. No. 1683 of 2023 are accordingly disposed of.

17. Urgent certified copy of this order be granted on proper application in course of the day.

18. Copy of this order be supplied to Mr. B.K. Ragada, learned Addl. Government Advocate for the State for service of the same on the I.I.C., Khurda Model Police Station.

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