

(2023) 10 OHC CK 0128
In the Orissa High Court
Case No : Criminal Appeal No. 842 Of 2023

Tukuna @ Sabyasachi Padhiary

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 18-10-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 307, 332, 353, 506
Arms Act, 1959 — Section 25(1B)(a), 27

Citation : (2023) 10 OHC CK 0128

Hon'ble Judges : S.K. Sahoo, J

Bench : Single Bench

Advocate : G.K. Nayak, Rajesh Tripathy

Final Decision : Disposed Of

Judgement

S.K. Sahoo, J

I.A. No. 1790 of 2023

This matter is taken up through Hybrid Arrangement (Video Conferencing/ Physical Mode).

This is an application for bail.

The appellant-petitioner Tukuna @ Sabyasachi Padhiary has been convicted under sections 332/353/ 307/506/34 of the Indian Penal Code read with sections 25(1-B)(a)/27 of the Arms Act and sentenced to undergo rigorous imprisonment for a period of three years for the offence under section 332/34 of the Indian Penal Code, to undergo rigorous imprisonment for a period of two years for the offence under section 353/34 of the Indian Penal Code, to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.10,000/- (rupees ten thousand), in default, to undergo further rigorous imprisonment for a further period of three months for the offence under section 307/34 of the Indian Penal Code, to undergo rigorous imprisonment for a period of three years for the

offence under section 506/34 of the Indian Penal Code, to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.2,000/- (rupees two thousand), in default, to undergo further rigorous imprisonment for a further period of one month for the offence under section 25 (1-B)(a) of the Arms Act and to undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.3,000/- (rupees three thousand), in default, to undergo further rigorous imprisonment for a further period of two months for the offence under section 27 of the Arms Act and all the sentences were directed to run concurrently by the learned Asst. Sessions Judge, Bhanbjanagar vide judgment and order dated 18.07.2023 passed in S.T. Case No. 184 of 2017.

Learned counsel for the petitioner submitted that that the petitioner was taken into judicial custody on 09.05.2017 and he was released on bail on 08.08.2017 and after pronouncement of the judgment, he was taken into judicial custody on 18.07.2023. Learned counsel further submitted that according to the prosecution case, there are three injured persons, i.e. P.W.8, P.W.10 and P.W.12. The doctor (P.W.17) has stated that P.W.12 has sustained two simple injuries, one on the knee and the other on the left elbow and both the injuries are simple in nature. The doctor has also stated that he has not examined P.W.8 and P.W.10. It is submitted that one of the co-accused who was facing trial with the petitioner, namely, Lambu @ Lambodar @ Chai @ Ula @ Narayan Tarini has also sustained grievous injuries and his leg was imputed. It is further submitted that the petitioner has got a very good chances of success in the appeal and there is no chance of early hearing of the appeal in the near future and balance of convenience is in his favour and therefore, the bail application may be favourably considered.

Learned counsel for the State, on the other hand, opposed the prayer for bail.

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced during trial, the fact that the petitioner was on bail during trial and there is no material on record to indicate that he has misutilized the liberty and absence of any chance of early hearing of the appeal in the near future, I am inclined to release the petitioner on bail.

Let the appellant-petitioner be released on bail pending disposal of the appeal on furnishing bail bond of Rs.50,000/- (rupees fifty thousand) with two solvent sureties each for the like amount to the satisfaction of the learned trial Court with such terms and conditions as the learned Court may deem just and proper. Violation of any of the conditions shall entail cancellation of bail.

The I.A. is disposed of.

I.A. No. 1791 of 2023

This is an application for stay of realization of fine.

Heard.

There shall be stay of realization of fine amount imposed on the appellant-petitioner by the learned Asst. Sessions Judge, Bhanbjanagar vide judgment and order dated 18.07.2023 passed in S.T. Case No. 184 of 2017 pending disposal of the criminal appeal.

The I.A. is disposed of.

Issue certified copy as per rules.

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