

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6515 of 2021

Md. Mustak @ Mustak

Petitioner
....
Mr. S.R. Mohapatra, Advocate

-versus-

State of Odisha

Opposite Party
....
Mr. K.K. Nayak, A.S.C. for State
Mr.S. Daspattnaik, Advocate for Informant

**CORAM:
JUSTICE A.K.MOHAPATRA**

ORDER
08.02.2022

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Joda P.S. Case No.30 of 2021, corresponding to G.R. Case No.96 of 2021, pending in the file of learned J.M.F.C., Barbil, for commission of alleged offences under Sections 302/323/325/34 I.P.C.
3. Heard learned counsel for both the parties. Perused the case records.
4. The FIR allegation discloses that on 22.02.2021 at about 10.30 A.M., one Bolero vehicle bearing Registration No.OD-09-G-6462 of the Informant dashed against the Auto-Rickshaw bearing Registration No.OD-09-G-6462 in front of the Office-cum-Workshop of the informant at Kamarjoda. At that time, one

Abhinash Singh was driving the said Bolero vehicle. Therefore, quarrel took place between the driver of the Bolero and driver of the Auto-Rickshaw. It is alleged that the accused persons, i.e. driver of the Auto-Rickshaw and others came to the spot with stick and iron rod and entered into the office of the Informant and assaulted the staff, for which, one Divyas Singh sustained grievous injuries and succumbed to the injuries. Thereafter, a police case was lodged against the culprit.

5. Learned counsel for the Petitioner submits that the Petitioner was only present at the spot and there is no evidence to prove that the Petitioner had not assaulted the deceased in any manner. On the contrary, he submits that the statement of the witness consistently indicates that the names of Jitu, Badal, Chandan, Satyanath, who were assaulting the deceased. He further submits that Petitioner was in jail custody since 17.04.2021 and he is a poor man and only member to look after his family. Since he is a permanent resident of the locality, there is no chance of absconding or avoiding the process of law.

6. Learned counsel for the State submits that Petitioner was present at the spot and the allegation is omnibus in nature. It is not known who has assaulted the deceased. However he admits that charge-sheet has been filed in the case. Further, it is stated that the incidence recorded in the CCTV footage was verified by the local police and it was found that the assault part was beyond the coverage area of CCTV camera, therefore, there is no conclusive evidence on record in the CCTV footage.

7. In such view of the matter and keeping in view the materials available on record and also taking into consideration the custodial detention of the Petitioner, I am inclined to release the Petitioner be on bail subject to furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with two solvent sureties for the like amount to the satisfaction of the learned court in seisin of the matter subject to further conditions that the Petitioner shall cooperate with the investigation of the case and he shall not tamper with the evidence or show any threat to the prosecution witnesses, whatsoever.

8. With the above direction, the BLAPL is accordingly allowed.

9. Issue urgent certified copy on proper application.

(A.K. Mohapatra)
Judge

U.K.Sahoo

