

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.172 of 2022

***Aqyub Khan @ Yakub Khan @
Salu*** ***Petitioner***

Mr. S.R. Mulia, Advocate

-versus-

State of Odisha ***Opposite Party***

Sk. Zafrulla, ASC

**CORAM:
JUSTICE S.K. PANIGRAHI**

ORDER

09.03.2022

Order No.

07. 1. The matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is in judicial custody in connection with G.R. Case No.526 of 2021, arising out of Mangalabag P.S. Case No.101 of 2021 of the court of learned JMFC (City), Cuttack for commission of offence under Sections 224, 328 & 120-B of the IPC. He has filed this petition for his release on bail.
4. The prosecution case, in short, is that on 10.04.2021, at 4.30 P.M., it is alleged that convict Sk. Hyder escaped from the SCB Medical College and Hospital, while being treated, with the help of his relatives by throwing some poisonous substance on the informant.

5. Learned counsel for the petitioner submits that the petitioner is in judicial custody since 13.04.2021 and charge-sheet has been filed. In the meantime, the principal accused has already been killed in police encounter. Furthermore, the co-accused has been granted bail by this Court vide order dated 07.12.2021 in BLAPL No.4066 of 2021. So, the bail application may be allowed.

6. Learned counsel for the State vehemently opposed the bail prayer of the petitioner.

7. The petitioner has already spent in custody for about more than 10 months and trial has not yet commenced. The Hon'ble Apex Court, time and again, has expressed displeasure on the delay of trial of the undertrial prisoners and their sufferings due to such delay. The Hon'ble Apex Court in ***Hussainara Khatoon (I) v. State of Bihar***,¹ observed that “*speedy trial is not specifically enumerated as a fundamental right in India; it is implicit in a broad sweep and content of Article 21 of the Indian Constitution*”. It is pertinent to mention that certain provisions of the Cr.P.C. impose a statutory obligation upon the courts to proceed the trial “expeditiously” so that the case could be disposed of without inordinate delay. The speedy trial of offences is a desirable goal because long delay can defeat justice. There is a common proverb – ‘*delay defeats justice*’. Hence, it is said that speedy justice is the essence of an organized society and the cases should be decided as early as possible. The present case fails to confirm to the aforesaid stand as articulated by the Hon'ble Apex Court.

¹ (1980) 1 SCC 81

8. Keeping in view the aforesaid facts and submissions and the period of detention of the petitioner in judicial custody without trial having commenced, the BLAPL is allowed.

9. Let the petitioner-Aqyub Khan @ Yakub Khan @ Salu be released on bail in the aforesaid case on some stringent terms and conditions as deemed just and proper by the court in seisin over the matter with further conditions that:-

i. he shall appear before the trial court on each date of posting of the case;

ii. he shall not indulge in any kind of criminal activity during bail period and shall not tamper with the evidence of prosecution witnesses in any manner.

10. Violation of any of the conditions shall entail cancellation of the bail.

11. The BLAPL is disposed of.

Urgent certified copy of this order be granted as per rules.

(S.K. Panigrahi)
Judge

pcd