

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.1018 of 2022

Namzan Burh @ Namjan Burh

.... Petitioner

Mr. U.R. Jena, Advocate

-versus-

State of Odisha

.... Opposite Party

Mr. G.R. Mohapatra, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

13.04.2022

Order No.

02. 1. This matter is taken up through hybrid mode.

2. Heard.

3. The petitioner is in custody in connection with Bonai P.S. Case No.155 of 2019 corresponding to G.R. Case No.612 of 2019 of the court of learned Addl. Sessions Judge, Bonai for the commission of offence under Section 302 and 120-B of the IPC. He has filed this petition for bail.

4. The brief fact of the case is that the informant lodged an FIR alleging that on 18.12.2019 evening, his elder brother went away from his house and did not return. On 19.12.2019, the dead body of his elder brother was found near Kindrikala.

5. Learned counsel for the petitioner submits that the petitioner has been in custody since 27.12.2019 and nobody has seen the occurrence nor can the petitioner be directly implicated in the case. He further submits that nobody has stated anything against the

petitioner except on surmises and conjectures. The trial has not yet been commenced.

6. Learned counsel for the State opposes the bail prayer of the petitioner.

7. The petitioner has already spent more than two years in judicial custody without trial being commenced and there is less likelihood of completion of trial in the near future. The Hon'ble Apex Court, time and again, has expressed displeasure on the delay of trial of the under trial 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 offence 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.

8. Considering the aforesaid facts and submissions, the BLAPL is allowed.

¹ (1980) 1 SCC 81

9. Let the petitioner 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:-

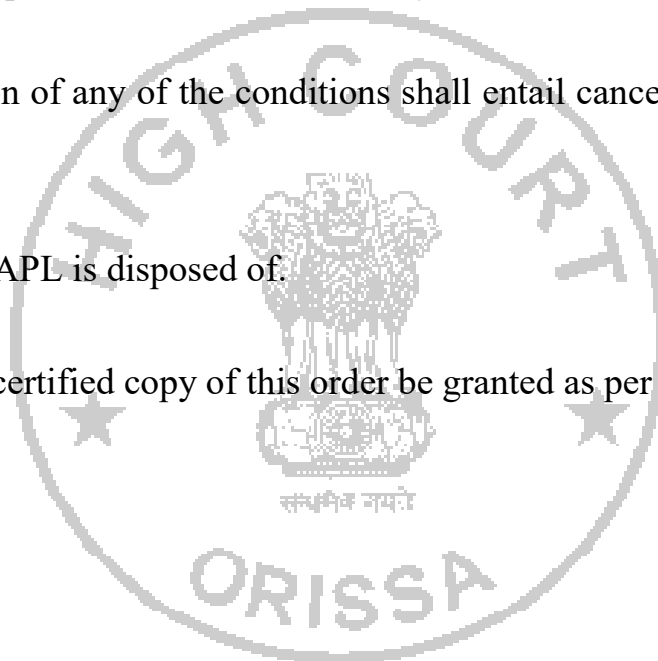
i. he shall appear before the trial court on each date of posting of the case;

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.

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



(S.K. Panigrahi)
Judge