

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.1064 of 2022

Bhagban @ Bhagia Behera

.... Petitioner

Mr. B. Sahoo, Advocate

-versus-

State of Odisha

.... Opposite Party

Mr. Karunakar Das, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

31.03.2022

Order No.

02. 1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is an accused in Nayagarh Sadar P.S. Case No.124 of 2020 corresponding to G.R. Case No.478 of 2020 (S.T. Case No.35 of 2021) of the court of learned SDJM, Nayagarh for the commission of offence under Section 302/34 of the IPC. He has filed this petition for bail.
4. The prosecution case, as narrated in the FIR, is that in the night of 18.09.2020, the present petitioner along with others committed the murder of Kalia Naik, who is the cousin brother of the informant.
5. The learned counsel for the petitioner submits that the petitioner is in custody since 22.09.2020 and there is no direct allegation against the present petitioner in implicating him the alleged crime. He is the sole member of the family. His role is slotted under suspicion because nobody has seen in killing the deceased. It is on the basis of

the love affairs between the deceased's wife and the present petitioner, which promoted some statements against him. There is no ocular witness to implicate the present petitioner, except some uncorroborated suspicions statements of some of the neighbours. The trial has not yet been commenced and there is no likelihood of completion of trial in near future.

6. Learned counsel for the State opposes the bail prayer of the petitioner on the ground that this is a case of murder under Section 302 of the IPC.

7. The petitioner is in custody for more than 1 and ½ years and the trial has not yet been 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.

¹ (1980) 1 SCC 81

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

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

i. he shall appear before the court in seision over the matter on each date of posting of the case till completion of trial;

ii. he shall not indulge himself in any kind of criminal activity and shall not threat or intimidate the prosecution witnesses in any manner during the bail period.

iii. He shall appear before the local police station every Sunday at any time between 10 a.m. to 5 p.m.

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