

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4598 of 2021

Duryodhan Bhuen

....

Petitioner

Mr. J. K. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mrs. S. Pattanayak, AGA

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

30.03.2022

Order No.

01. 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 being in custody in connection with Binika P.S. Case No.127 of 2019 corresponding to G.R. Case No.122 (A) of 2019 (S.C. Case No.7/09 of 2020) on the file of learned Addl. Sessions Judge, Sonapur, running for commission of offence under Sections 302, 307, 341, 120-B/34 of the IPC read with Sections 25 and 27 of the Arms Act, has filed this application under Section 439 of the Cr.P.C. for his release on bail.
4. The prosecution case, in brief, is that on 04.08.2019, at about 8.30 P.M., when the deceased Praneswari Luha and injured Kantia Luha and Baleswar Luha were returning home from the Mahadev Pali Out-post, the accused persons attacked them by means of sword, as a result, deceased Praneswari Luha succumbed to the injuries and

Kantia Luha and Baleswar Luha sustained injuries on different parts of their person.

5. Learned counsel for the petitioner submits that the present petitioner has alleged to have committed murder of the mother of the informant along with some other co-accused. As to the FIR, the present petitioner along with one Narahari Bhuena and Sudarsan Bhuena had some internal disputes with the family of the informant. After drunk, they came across the mother of the informant and started the assault, following which she has taken to the hospital, where she succumbed. The learned counsel for the petitioner further submits that there is no specific allegation against the present petitioner. The assault was jointly done. What is the gravity of the assault inflicted by the petitioner is not clear. The petitioner is in custody since 12.08.2019. So, the bail petition may be allowed. Furthermore, the trial has not yet been commenced.

6. Learned counsel for the State vehemently opposes the bail prayer of the petitioner stating that since it is a case of offence under Section 302 of the IPC, the petitioner does not deserve to be released on bail.

7. The petitioner is in custody for more than 2 and ½ years and the trial has not yet been commenced and there is likely less chance 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.

9. Let the petitioner-Duryodhan Bhuena 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 while on bail and shall not tamper with the evidence of prosecution witnesses in any manner.

¹ (1980) 1 SCC 81

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

