

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4779 of 2021

Jiten Nayak

....

Petitioner

Mr. M. Kanungoo, Senior Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Dash, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

03.03.2022

Order No.

06. 1. The matter is taken up through hybrid mode.
2. Heard learned Senior Counsel for the petitioner and learned counsel for the State.
3. The petitioner being in custody in Baliguda P.S. Case No.150/2019 corresponding to C.T. Case No.408/2019 of the court of learned SDJM, Baliguda for the commission of offence under Sections 498-A, 304-B and 306 of the IPC has filed this petition for his release on bail.
4. The prosecution case, as narrated in the FIR, is that on 06.11.2019 the informant lodged FIR before the IIC, Baliguda P.S. stating that the petitioner had kidnapped her daughter and took her to Ellure, Kerela. Thereafter, the petitioner informed over phone to the informant that he married to her daughter. It is further alleged that on the return from Kerala, on the way her daughter committed suicide due to torture and assault by the petitioner-husband.
5. Learned Senior Counsel for the petitioner submits that the petitioner has been in custody since 09.03.2020 and that his earlier bail applications have been rejected twice vide orders dated

11.09.2020 in BLAPL No.3917/2020 and 19.01.2021 in BLAPL No.6537 of 2020. He further submits that at the time of argument of the case on earlier occasions, the counsel might have failed to bring notice of the Court the charge-sheet regarding offences, which are under Sections 498-A, 304-B and 306 of the IPC or charge-sheet might have not submitted at that time. The petitioner is in custody for about two years. Hence, the petitioner deserves to be granted bail.

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

7. Since charge-sheet has already been filed in time, no useful purpose can be served if the petitioner is kept in custody for such a long time without trial. Moreover, 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

¹ (1980) 1 SCC 81

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 be released on bail in the aforesaid case by the learned court in seisin over the matter with some stringent terms and conditions as deemed just and proper in the aforesaid case 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.

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