

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 7737 of 2022

Mohan Nag

....

Petitioner

Mr.J.K. Panda, Adv.

-versus-

State of Odisha

....

Opp. Party

*Mr.G.R. Mohapatra,
ASC*

CORAM:
DR. JUSTICE S.K. PANIGRAHI

ORDER

28.09.2022

Order
No.

01. 1.This matter is taken up through hybrid mode.
2. Heard learned counsel for the parties.
3. The Petitioner being in custody in Tarava P.S. Case No.200 of 2020 corresponding to S.T. Case No.92 of 2022, pending in the court of the learned Sessions Judge, Sonapur, registered for the alleged commission of offences under Sections 147/ 148/ 452/ 341/ 307/149 of the I.P.C., has filed this petition for his release on bail..

4. The allegation of the prosecution is that on 20.11.2020 at about 09.30 P.M. the informant got information from his wife over phone that the present Petitioner and other accused persons forming an unlawful assembly being armed with stick, iron rod, axe etc. chased one Pitambar Mahakur of village Arakhapadar who out of fear entered into his house. It is further alleged that the present Petitioner and others forcibly entered into the house of the informant and assaulted the said Pitambar Mahakur causing bleeding injury on his body. While returning the informant found some blood stained stick, iron rod etc were lying in his house. So, he reported the matter to the police for taking necessary action.

5. Learned counsel for the Petitioner submits that the Petitioner has been falsely implicated in this case. He further submits that no specific overt act is attributed against the Petitioner. Though it is stated that 10 to 15 persons have assaulted the injured, there is no specific allegation against the Petitioner. He further submits that in the meantime charge sheet has already been filed. The Petitioner is in custody since 03.07.2021. He further submits that the co-accused has already released on bail vide order dated 24.06.2022 passed by this court in BLAPL No. 4224 of 2021.

6. Learned counsel for the State vehemently opposes the prayer for bail.

7. The petitioner has already spent more one years in custody and trial has not yet been commenced. 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 has 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*". Certain provisions of the Cr.P.C. also 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 of 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 Supreme Court. But detaining the petitioner for such a longer time without trial violates, erodes and simply abandons individual liberty and autonomy.

¹ (1980) 1 SCC 81

8. Without going into the merit of the matter at this stage facts and circumstances of the case and the period of detention, this BLAPL is allowed.

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

- i. the petitioner shall appear before the trial court on each date of posting of 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. Accordingly, the BLAPL is disposed of.

12. Urgent certified copy of this order be granted on proper application.

(Dr. S.K. Panigrahi)
Judge

SD