

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8342 of 2021

Prasanna Kumar Hans

....

Petitioner

Mr. B.S. Dasparida, Adv.

-versus-

State of Odisha

....

Opposite Parties

Mr. G.R. Mohapatra, ASC

CORAM:

DR. JUSTICE S.K. PANIGRAHI

Order
No.

ORDER
30.09.2022

1. The Petitioner is in custody in connection with Komna P.S. Case No.87/2018 which corresponding to C.T Case No.87 of 2018 pending in the Court of learned GMA cum-JMFC, Komna and after commitment renumbered as S.T. Case No.61/24 of 2018 now pending in the Court of the learned Addl. District and Sessions Judge, Nuapada for commission of offences under Sections 498(A)/304(B)/306 of IPC read with Section 4 of D.P Act.
2. The prosecution story as narrated in the FIR is that the daughter ("deceased") of the informant got married to

the present petitioner in the year 2017 as per caste and custom. It is alleged that after few months of the marriage, the present petitioner along with other family members tortured the deceased by demanding more dowry. It is also alleged that on 03.05.2018 the deceased had intimated the informant about the torture by the present petitioner. Further, on 4.05.2018 the informant came to the house of the present petitioner after getting information that he had killed the deceased.

3. It is submitted by learned counsel for the Petitioner that on the alleged date, the petitioner was not present in the house. The deceased was suffering from mental ailments and she committed suicide by hanging herself. Moreover, the petitioner tried his level best to save the deceased by taking her to the hospital and affording better treatment.
4. Learned Counsel further contended that as per the Post Mortem Report, Doctor opined the cause of death to be asphyxia due to hanging and no injury was found on the body of the deceased. In the meantime, the charge-sheet has already been submitted. On bare perusal of the F.I.R., 161 statements and other related documents, *prima facie*, the basic ingredients of the offences as stated above are not at all attributed against the petitioner in

any manner whatsoever. Of course, the detailed trial can only dig out the truth therein.

5. *Per Contra*, the learned counsel for the State vehemently opposed the bail petition on the grounds that the death of the deceased has occurred within one year of marriage of the petitioner with the deceased. Therefore, a *prima facie* case can be attributed to the petitioner with regard to the killing of his wife.
6. Additionally, the petitioner had earlier approached this Court vide BLAPL No.6322 of 2019 and this Court had dismissed the application on 22.12.2020 while directing the learned trial court to expedite the Trial. However, around 20 months have lapsed but the trial has not been concluded yet. The petitioner has been languishing in custody 07.05.2018. Therefore, considering the above facts and circumstances, learned counsel for the Petitioner submits that he may be released on bail u/s.439 of Cr.P.C.
7. In the facts of the present case, on an assessment of the material on record, this court of the *prima facie* view that the petitioner may not have committed the offence that he is charged with. Further, considering the past history of the Petitioner and absence of any criminal

antecedents, there is nothing on record to suggest that he is likely to commit an offence while on bail.

8. The Supreme Court has held that right to have speedy trial is a fundamental right of a citizen. Hence, keeping a person in custody for such a long time without any trial is not justified and violative of his fundamental right. The importance of speedy trial has been emphasized in the case of *Hussainara Khatoon & Ors vs Home Secretary, State of Bihar*¹, wherein the Supreme Court has iterated that:

"Speedy trial is, as held by us in our earlier judgment dated 26th February, 1979, an essential ingredient of 'reasonable, fair and just' procedure guaranteed by Article 21 and it is the constitutional obligation of the State to device such a procedure as would ensure speedy trial to the accused. The State cannot be permitted to deny the constitutional right of speedy trial to the accused on the ground that the State has no adequate financial resources to incur the necessary expenditure needed for improving the administrative and judicial apparatus with a view to ensuring speedy trial."

¹1979 AIR 1369

9. In *Khadra Paharia v. State of Bihar*², this Court re-affirmed the principle of *Hussainara Khatoon* (supra) case and declared that:

"....any accused who is denied this right of speedy trial is entitled to approach this Court for the purpose of enforcing such right and this Court in discharge of its constitutional obligation has the power to give necessary directions to the State Governments and other appropriate authorities for securing this right to the accused...."

10. Considering the submissions made, facts and circumstances, perusal of the case record, the Petitioner makes out a fit case for grant of bail and it is directed that the Petitioner be released on bail with some stringent terms and conditions as deemed just and proper by the court in *seisin* over the matter in the aforesaid case with further conditions that: -

- i. the Petitioner shall appear before the learned trial court on each date of posting of the case;
- ii. he shall not indulge in similar activities in future; and
- iii. he shall not tamper the evidence of the prosecution witnesses in any manner.

11. Violation of any of the conditions shall entail cancellation of the bail.

²AIR1981SC939

12.It is made clear that observations made in this order for allowing the prayer for bail will not be treated as expression of any opinion on merits of the case and the learned trial Court shall decide the case without being influenced by any such observations.

13.The BLAPL is, accordingly, disposed of.

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

B.Jhankar



(Dr. S.K. Panigrahi)
Judge