

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.10331 of 2021

Jhasketan Bag

....

Petitioner

Mr. Sarat Kumar Jena, Adv.

-versus-

State of Odisha

....

Opposite Party

Mr. Anand Das, ASC

CORAM:

MR. JUSTICE S.K. PANIGRAHI

ORDER

07.03.2022

Order No.

02.

1. This matter is taken up through hybrid arrangement.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner being in custody in C.T. Case No.357(A) of 2019, corresponding to C.T. Case No.72/50 of 2019-21, arising out of Bheden P.S. Case No.62 of 2019, pending in the court of the learned J.M.F.C., Bheden for the alleged commission of offences under Sections 498A/ 323/ 304B/ 306/ 34 of the I.P.C. read with Section 4 of the D.P. Act, has filed this petition under Section 439 of the Cr.P.C. for his release on bail.
4. The case of the prosecution is that on 24.03.2019 an F.I.R. lodged by the complainant alleging therein that his deceased sister married to the petitioner as per Hindu Caste and Customs about nine years back from the date of lodging of F.I.R. It is further alleged that on the date of the reporting at about 4.30 P.M. in the afternoon, he received information about the death of the victim whereafter, he and other relations went to the village of the in-laws of the deceased and found the deceased lying dead on a cot. He further alleged that the accused husband and other in-laws named in the F.I.R. have allegedly killed her as she was being

regularly subjected to physical and mental torture. On the lodging of the report at Bheden P.S., the accused petitioner was arrested and produced before the court below on 02.04.2019.

5. Learned counsel for the petitioner submits that the petitioner had married to the deceased one month before the incident. The only allegation against the petitioner is that the petitioner was torturing the deceased demanding dowry. On 23.03.2019, the deceased consumed poison and she succumbed to the injury on the same day at VIMSAR, Burla. The petitioner is in custody since 02.04.2019. Though the petitioner is languishing in custody for more than two years and ten months, charge has not yet been framed against him. Hence, he submits that the petitioner may be enlarged on bail.

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

7. The petitioner has already spent in custody for more than two years and ten months. The Hon'ble Apex Court, time and again, has expressed displeasure on the delay of trial of the undertrial 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

¹ (1980) 1 SCC 81

said that speedy justice is of the essence of an organised 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.

8. Considering the facts and submissions made and on going through the materials available on record, further keeping in view the surrounding circumstances including the period of detention of the petitioner in custody, it is directed that the petitioner be released on bail in the aforesaid case by the court in *seisin* over the matter on such terms and conditions as deemed just and proper subject to the 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 with the evidence of the prosecution witnesses in any manner.

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

10. Accordingly, the BLAPL is disposed of.

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

(S.K. Panigrahi)
Judge

BJ