

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10451 of 2021

Bimala Behera @ Bimal Behera ***Petitioner***
Mr. J. Samantaray, Advocate

-versus-

State of Odisha ***Opposite Party***
Sk. Zafrulla, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER
08.03.2022

Order No.

02. 1. The 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 Kabisuryanagar P.S. Case No.07 of 2021 corresponding to G.R. Case No.07 of 2021 of the court of learned JMFC, Kabisuryanagar for the commission of offence under Sections 302, 341, 342 & 323/34 of the IPC, has filed this petition for his release on bail.
4. The prosecution case, as narrated in the FIR, is that on 05.01.2021 while the husband of the informant along with one Laxmi Maharana were returning to their village near village Sunnapali, some villagers assaulted the informant's husband causing bleeding injury on his person. While he was taken to the Hospital, he succumbed to the injuries.

5. Learned counsel for the petitioner submits that the petitioner has been in custody since 15.04.2021 and co-accused has been granted bail by this Court vide order dated 01.09.2021 in BLAPL No.2386 of 2021. He further submits that the petitioner may be enlarged on bail with any terms and conditions imposed by this Court.

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

7. The petitioner has already spent in custody for about more than ten months. The trial has not commenced. 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 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 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 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. Keeping in view the aforesaid facts and submissions, the BLAPL is allowed.

¹ (1980) 1 SCC 81

9. Let the petitioner-Bimala Behera @ Bimal Behera be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin over the matter with further conditions that:-

i. he shall appear before the trial court on each date of posting of the 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. The BLAPL is disposed of.

Urgent certified copy of this order be granted as per rules.

(S.K. Panigrahi)
Judge

pcd