

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL NO.10559 OF 2021

Hadapa @ Edagala Shiva@ ***Petitioner***
H.Siva

Mr.Biraja Prasanna Das, Adv.

-versus-

State of Odisha ***Opp. Party***

Mr.G.R.Mohapatra,ASC

CORAM:
MR. JUSTICE S.K. PANIGRAHI

ORDER
18.05.2022

Order No.

03

- 1.This matter is taken up by hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is in custody in connection with Rayagada PS case No.432 of 2019 corresponding to C.T.Case No.30 of 2020, pending before the court of learned Chief Judicial Magistrate-cum- Assistant Sessions Judge, Rayagada for commission of the offences under Sections 294/324/336/337/307/332/34 of the Indian Penal Code and Sections 25 and 27 of the Arms Act.
4. The brief fact of the case is that five out of eleven culprits in the Rayagada P.S. Case No.425 of 2019 were evading police arrest. On 25.11.2019, police conducted a raid near Sankesh Jungle after receiving reliable information regarding the presence of the petitioner and other accused persons. As soon as the police officials reached there, the present petitioner, all of a sudden, started firing at them as a result of which one of his bullets hit the left arm of the

informant causing injury. Other culprits pelted stones aiming at the Police officials causing injury on their bodies. Left with no other choice, the informant fired two rounds of bullets, one of which hit the leg of the petitioner causing bleeding injury. Seeing this, other accused fled away from the spot in different directions. The petitioner was, however, caught by the Police and taken to District Hospital, Rayagada and from there he was referred to MKCG College, Berhampur for treatment.

5. Learned counsel for the petitioner submits that the charge-sheet has already been submitted. He further submits that the petitioner was not involved in Rayagada P.S. Case No. 425 of 2019. The petitioner was forcibly taken away by the Police at gunpoint in the middle of the night and the injuries on the petitioner were caused by the Police. Additionally, the police have foisted this false case against the petitioner to harass him. There is no cogent material that can be transferred into legal evidence to inculcate the petitioner in the offence alleged. Hence, the petitioner is in no way involved in the commission of the offence. Moreover, pursuant to the direction of this Court, learned counsel for the State has submitted the report after verification of the affidavit filed by the learned counsel for the petitioner regarding the acquittal in the case. It reveals that the petitioner has already been acquitted in all the cases lodged against him in different police stations. Hence, no any cases are pending against him. The Police have implicated him in many cases in order to reach at their yearly target. In the meantime, investigation has already been completed and charge-sheet has already been filed. The trial of the case is yet to commence. He is languishing in jail custody since 25.11.2019.

6. The petitioner has already spent in custody for about more than 1 and ½ year and trial has not yet been commenced. There is less likelihood of completion of trial in the near future. 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.

7. Learned counsel for the State vehemently opposed the prayer for bail of the petitioner.

8. Considering the submissions made, facts and circumstances of the case as well as period of detention of the petitioner in custody, it is directed that the petitioner be released on bail in the aforesaid case with some stringent terms and conditions as deemed just and proper by the learned court in seisin over the matter with further conditions that:-

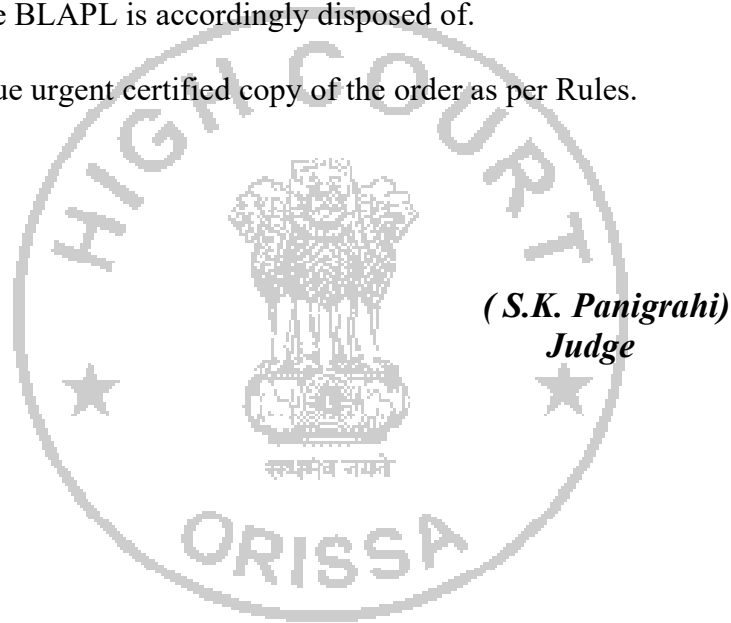
¹ (1980) 1 SCC 81

- i. the petitioner shall appear before the learned trial court on each date of posting of the case;
- ii. he shall not indulge himself in any criminal offence while on bail and
- iii he shall not tamper with the evidence of the prosecution evidence in any manner.

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

10. The BLAPL is accordingly disposed of.

11. Issue urgent certified copy of the order as per Rules.



LB