

(2024) 05 OHC CK 0066
In the Orissa High Court
Case No : Bail Application No. 1938 Of 2024

Pikan @ Saumya Ranjan Parida

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 06-05-2024

Acts Referred:

Indian Penal Code, 1860 — Section 34, 114, 120B, 212, 302

Citation : (2024) 05 OHC CK 0066

Hon'ble Judges : Dr. S.K. Panigrahi, J

Bench : Single Bench

Advocate : L. Patel, G.R. Mohapatra

Final Decision : Disposed Of

Judgement

Dr. S.K. Panigrahi, J

1. This matter is taken up through hybrid arrangement.
2. Heard learned counsel for the parties.
3. The Petitioner being in custody in connection with Mancheswar P.S. Case No.379 of 2019 corresponding to C.T. Case No.88 of 2020 pending in the court of learned 3rd Additional Sessions Judge, Bhubaneswar for the offences under Sections 302/120-B/114/212/34 of the Indian Penal Code has filed this application for release on bail.
4. The brief facts of the case is that on 10.09.2019 at about 8.30 P.M. while Deepak Behera, the brother of the informant, was closing his tiffin stall at DHPL square, Rangamatia, the accused petitioner along with the other accused persons being armed with sword, bhujali, rod, etc. attacked said Deepak from his behind causing profuse bleeding. The injured was shifted to hospital where he succumbed to the injuries on the same night.
5. Learned counsel for the petitioner submits that the petitioner is an innocent and no way connected in the said offence. The Petitioner is in custody since

17.09.2019. He further submits that the conduct of the Petitioner inside the custody is satisfactory. He further undertakes that if the Petitioner is released on bail, he shall plant 200 trees around his village Rangamatia under Mancheswar P.S.

6. Learned counsel for the Petitioner submits that the Hon'ble 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, wherein the Hon'ble 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 devise 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."

7. He further argues that the period of long incarceration suffered, which entitle the Petitioner for grant of bail. Right to Speedy trial is a fundamental right of an under trial prisoner and this observations have been resonated, time and again, in several judgments including that of Kadra Pahadiya & Ors. v. State of Bihar (1981) 3SCC 671 wherein it has been held that the obligation of the State or the complainant, as the case may be, to proceed with the case with reasonable promptitude. Particularly, in a country like ours, where the large majority of the accused come from poorer and weaker sections of the society and are not versed with laws and after face the dearth of competent legal advice. Of course, in a given case, if an accused demands speedy trial and yet he is not given one, may be a relevant factor in his favour. But an accused cannot be disentitled from complaining of infringement of his right to speedy trial on the ground that he did not ask for or insist upon a speedy trial.

8. The Supreme Court has also held in Mohd. Muslim @ Hussain v. State (NCT of Delhi) SLP (Crl.) No.915 of 2023 that incarceration has further deleterious effects where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials - especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.

9. Learned counsel for the State vehemently opposes the prayer for bail of the Petitioner.

10. Without going into the merit of the matter and considering the facts and

submission made as well as length of detention of the petitioner in custody, this Court is inclined to release the Petitioner on bail. Accordingly, it is directed that the court in seisin over the matter shall release the Petitioner on bail in the aforesaid case on stringent terms and conditions with further conditions that:

i. the Petitioner shall plant 200 trees like mango, tamarind etc. around his village-Rangamatia under Mancheswar P.S.

ii. the Petitioner shall start planting trees as soon as the rainy season approaches and will maintain those trees.

iii. the Petitioner shall appear before the local police station once in a week on Monday in between 10 A.M. to 1.00 PM.

iv. the Petitioner shall not indulge himself in any criminal offence while on bail.

v. he shall not tamper the evidence of the prosecution evidence in any manner.

11. The Mancheswar P.S. shall see whether the Petitioner has planted the tree or not.

12. The District Nursery shall extend the helping hand by supplying plants to the Petitioner.

13. Violation of the aforesaid conditions may entail consideration for cancellation of the bail granted to the Petitioner.

14. The BLAPL, is accordingly, disposed of.

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

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