



IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.12322 of 2025

Bijendra @ Bijaya Jena

..... *Petitioner*

Mr. Rabi Narayan Nanda, Adv.

-Versus-

State of Odisha

..... *Opposite Party*

Smt. Sarita Moharana, ASC

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

ORDER

17.12.2025

Order No.

01.

FIR No.	Dated	Police Station	Case No. and Courts' Name	Sections
0020	19.01.2022	Bhandaripokhari	S.T. Case No.117 of 2022 arising out of Bhandaripokhari P.S. Case No.20 of 2022 pending in the court of learned Sessions Judge, Bhadrak	Sections 498(A)/323/304(B)/302/506/34 of IPC read with Section 4 of the D.P. Act

1. This matter is taken up through hybrid arrangement.
2. Heard learned counsels for the Parties.



3. The Petitioner is in custody in connection with S.T. Case No.117 of 2022 arising out of Bhandaripokhari P.S. Case No.20 of 2022 pending in the court of learned Sessions Judge, Bhadrak, registered for the alleged commission of offences under Sections 498(A)/323/304(B)/302/506/34 of IPC read with Section 4 of the D.P. Act has filed this petition for his release on bail.

4. Learned counsel for the Petitioner submits that the seven witnesses have already been examined out of 35 witnesses. He further submits that the Petitioner is in custody for about 4 years. He further submits that there is no direct evidence against the present Petitioner. There is an allegation of strangulation though nobody has seen it. Hence, he submits that the Petitioner may be enlarged on bail.

5. Learned counsel for the Petitioners further 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."

6. He further argues that the period of long incarceration suffered, which entitle the Petitioners 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**¹ 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

¹ (1981) 3SCC 671



complaining of infringement of his right to speedy trial on the ground that he did not ask for or insist upon a speedy trial.

7. The Supreme Court has also held in **Mohd. Muslim @ Hussain v. State (NCT of Delhi)**² 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.

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

9. Without going into the merit of the case and based on the facts and circumstances of the case and considering the 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

² SLP (Crl.) No.915 of 2023



the learned court *in seisin* over the matter with further conditions that:-

- i. the Petitioner shall appear before the trial court on each date of posting of the case;
- ii. the Petitioner shall appear before the local police station once a week on Monday in between 10 A.M. to 12.00 Noon till the end of trial.
- iii. the Petitioner shall not indulge himself in any criminal offence while on bail; and
- iv. the Petitioner shall not tamper the evidence of the prosecution witnesses in any manner.
- v. The Petitioner, after the onset of monsoon, shall plant 100 saplings each of local varieties, such as mango, neem, tamarind, etc., around his village on Government land, community land, or private land in the possession of the Petitioner or his family members. In the event that suitable land is unavailable, the Revenue Authority shall assist in identifying the land for plantation.

Violation of any of the above conditions shall lead to cancellation of the bail.



10. The District Nursery/D.F.O. shall extend the helping hand by supplying the saplings to the Petitioner and the Revenue Authority shall assist the Petitioner in identifying the location for plantation of the saplings. If the land is not available, the Petitioner to approach the Revenue Authority for identifying the land for plantation and the Revenue Authority shall do the needful.

11. The I.I.C. of the concerned Police Station in coordination with the local Forest Officer shall monitor; whether the Petitioner has planted the saplings or not.

12. It is further made clear that the Petitioner shall file an affidavit after plantation of the saplings before the local Police Station assuring that he shall maintain those plants for two years.

13. The BLAPL is accordingly disposed of.

(Dr. Sanjeeb K Panigrahi)
Judge