

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.33 of 2022

Dhirendra Kumar Sahu

.... Petitioner

Mr. J. Sahoo, Advocate

-versus-

State of Odisha

.... Opposite Party

Mr. A. Dash, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

03.03.2022

Order No.

01. 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 connection with 2(a) C.C. No.11 of 2019-N, corresponding to P.R. No.38 of 2019-20, of the court of learned Special Judge, Berhampur for the commission of offence under Section 20(b)(ii)(C) of the NDPS has filed this petition for his release on bail.
4. The prosecution case, as narrated in the FIR, is that the police recovered contraband ganja weighing 114 k.g. from the possession of the petitioner.
5. Learned counsel for the petitioner submits that the petitioner has been in custody since 31.05.2019 and trial has been started. Two witnesses have already been examined. Learned counsel further submits that the petitioner undertakes to cooperate with the trial and appear on each date of trial, if he is released on bail.

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

7. The petitioner has already spent in custody for about more than one and half year and trial has not yet completed. The Hon'ble Apex Court, time and again, has expressed displeasure on the delay of trial of the under trial 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 offence 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. Considering the aforesaid facts and the prolonged period of detention already undergone by the petitioner, the BLAPL is allowed.

9. Let the petitioner be released on bail in the aforesaid case by the learned court in seisin over the matter with some stringent terms and conditions as deemed just and proper in the aforesaid case with further conditions that:

¹ (1980) 1 SCC 81

i. he shall appear before the court in seision over the matter on each date of posting of the case till completion of trial;

ii. he shall not indulge himself in any kind of criminal activity while on bail 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

