

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.101 of 2022

Sona Khilla @ Sana Khilla

....

Petitioner

Mr. J.K. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. G.N. Mohapatra, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

10.03.2022

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 is in custody in Orkel P.S. Case No.141 of 2020 corresponding to T.R. Case No.83 of 2020 of the court of learned Special Judge, Malkangiri for the offence under Section 20(b)(ii)(C) of the NDPS Act. He has filed this petition for his release on bail.
4. The prosecution case, in short, is that 24.08.2020, while performing MV checking, the police staff noticed one red and black colour Passion X-Pro motorcycle without registration number was coming from Balimela. They stopped the vehicle, and found one person was riding the motor cycle and pillion rider was sitting back of the rider with two polythene bags in the middle. On

being interrogated, they confessed about the contents of the plastic gunny bags containing 45 kg 500 grams of Ganja.

5. Learned counsel for the petitioner submits that the petitioner has been in custody since 25.08.2020. Investigation of the case has been completed. There is no material against the petitioner to implicate him in the alleged crime. So, the bail petition may be allowed.

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

7. The petitioner has already spent in custody for about more than one year and $\frac{1}{2}$ years and trial has not yet 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

¹ (1980) 1 SCC 81

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 and the period of detention of the petitioner in judicial custody without trial having commenced, the BLAPL is allowed.

9. Let the petitioner-Sona Khilla @ Sana Khilla be released on bail in the aforesaid case on some stringent 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