

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.410 of 2022

Pravati Behera

....

Petitioner

Mr. Manas Chand, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. J. Katikia, AGA

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

28.02.2022

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 being an accused in Tangi P.S. Case No.362 of 2020 corresponding to T.R. Case No.57 of 2020 of the court of learned 2nd Addl. Sessions Judge-cum-Special Judge, Khurda for the commission of offence under Section 20(b)(ii)(C) of the N.D.P.S. Act, has filed this application under Section 439 of the Cr.P.C. for her release on bail.

4. The prosecution case, as narrated in the FIR, is that the police seized contraband Ganja weighing 30.300 k.g. from the house of the petitioner.

5. Learned counsel for the petitioner submits that the petitioner has been in custody since 20.11.2020 and the trial has not been completed as per direction of this Court vide order 23.12.2021 in BLAPL No.10138/2021. Learned counsel for the petitioner submits

that the petitioner undertakes that she shall appear before the court without fail on each date of posting of trial, if she 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 year and trial has not yet been 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. Keeping in view the aforesaid consideration, facts of the case, and the period of detention of the petitioner in judicial custody, the BLAPL is allowed.

¹ (1980) 1 SCC 81

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

i. petitioner shall appear before the court on each date of posting of the case;

ii. she shall not indulge in any kind of criminal activity during bail period; and

iii. she shall not tamper with the evidence of prosecution witnesses in any manner and shall not terrorize the prosecution witnesses.

iv. she shall appear before the Tangi Police Station on every Sunday in the morning, within 10.00 a.m. to 2 p.m. till disposal of the case.

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

11. The BLAPL is disposed of.

12. Urgent certified copy of this order be granted as per rules.

(S.K. Panigrahi)
Judge