

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO. 619 of 2022

*Sk.Talim @ Badi*

....

*Petitioner*

*Mr.B.P. Pradhan, Adv.*

*-versus-*

*State of Odisha*

.... *Opposite Party*

*Mr.G.R.Mohapatra, ASC*

**CORAM:**

**DR JUSTICE S.K. PANIGRAHI**

Order

No.

ORDER

**03.01.2023**

03.

1. This matter is taken up by hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner being in custody in connection with Khruda Sadar P.S. case No. 163 of 2020 corresponding to T.R. Case No.46 of 2020, pending in the court of the learned 2nd Additional Sessions Judge, Khurda, registered for the alleged commission of offence under Sections 20(C)/29 of the NDPS Act, has filed this petition for his release on bail.
4. It is alleged in the FIR that on 27.09.2020 at about 7.30 A.M. Inspector of S.T.F, Sunita Pradhan received information that Sk. Talimand & Sk. Asif of Routpada are transporting brown sugar to deliver to a customer at Tapanga and they are moving in a hero Honda Passion motor cycle bearing Regd. No. OR 02 BX-9781. The S.T.F. staff detained both the accused persons and they disclosed their identity as Sk. Talim @ Badi and Sk. Asif @ Baun.

Sk. Talim was driving the motor cycle. On being asked Sk. Talim produced one transparent polythene packet containing some powder and both of the accused persons admitted that they were carrying brown sugar. On measurement by weight, the quantity of the brown sugar is found to be 265 gm. including polythene packet. The S.T.F. staff prepared the seizure list at the spot and arrested the accused persons and forwarded them to court on 28.09.2020.

5. Learned counsel for the petitioner submits that the petitioner has been falsely entangled in this case by the S.T.F. Bhubaneswar. He further submits that no contraband article has been seized from the possession of the petitioner and there is no prima facie evidence made out against the accused-petitioner. He added that the petitioner has no previous criminal antecedent at his credit nor he is an habitual offender in dealing with contraband articles. The petitioner is a local person residing at village Rautapada, Kusumi under Tangi P.S. which comes under authority of I.I.C., Tangi so there is no chance of absconding.

6. Learned counsel for the petitioner further submits that the petitioner has already spent in custody since 28.09.2020 which is for more than two years and trial has not yet been commenced. Further, there is less likelihood of completion of trial in the near future. The Hon'ble Apex Court, time and again, has expressed displeasure on the delay of trial of the under trial prisoner and his suffering due to such delay. The Hon'ble Apex Court in

*Hussainara Khatoon (I) v. State of Bihar*,<sup>1</sup> 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 early as possible. The present case fails to confirm to the aforesaid stand as articulated by the Hon’ble Apex Court.

7. Mr. G.R.Mohapatra, learned Additional Standing Counsel State although vehemently opposed the prayer for bail of the petitioner but conceded the prolonged detention of the petitioner for more than two years.

8. Without going into the merits of the matter at this stage and based on the facts and circumstances of the case as well as period of detention of the petitioner in custody without trial, 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 in order to secure his attendance during course of trial by the learned court in seisin over the matter with further conditions that:-

---

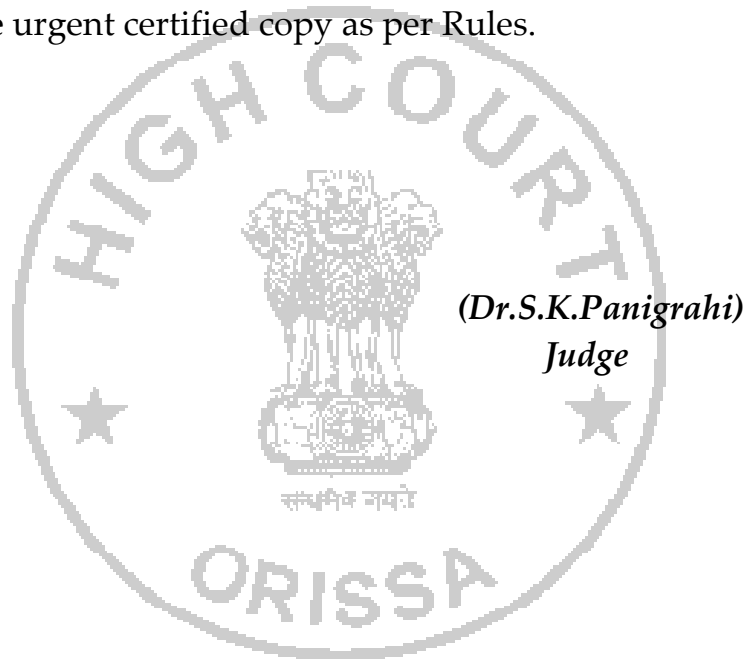
<sup>1</sup> (1980) 1 SCC 81

- i. the petitioner shall appear before the learned trial court on each date of posting of the case;
- ii. he shall not indulge himself in any criminal offence while on bail and
- iii he shall not tamper the evidence of the prosecution evidence in any manner.

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

10. The BLAPL is accordingly disposed of.

11. Issue urgent certified copy as per Rules.



LB