

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.541 of 2022

Suraj Ray

....

Petitioner

Mr. P.K. Nanda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mrs. S. Pattanayak, AGA

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

29.03.2022

Order No.

02. 1. This 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 T.R. Case No.93 of 2020, arising out of Mathili P.S. Case No.120 of 2020, of the court of learned Special Judge, Malkangiri for commission of offence under Sections 20(b)(ii)(C), 27-A and 29 of the N.D.P.S. Act. He has filed this petition for bail.
4. The prosecution case, as narrated in the FIR, is that the Mathili Police, while performing patrolling duty in the night of 02.09.2020, found two vehicles i.e. one car and a bike coming from Govindapalli. On seeing the police party, the motor cyclist and occupants of the car stopped the vehicle and fled from the spot. The police chased them and nabbed two persons who were occupants of the car. The other occupants and the motor cyclist fled towards the jungle. The police seized 152.900 k.g. of ganja from the car.

5. Learned counsel for the petitioner submits that the petitioner is in custody since 02.09.2020 and co-accused has been granted bail by this Court vide order dated 24.12.2021 in BLAPL No.6802 of 2021. The trial has not yet been commenced. So, the bail petition may be allowed.

6. Learned counsel for the State opposes the bail prayer of the petitioner on the ground that the quantity of ganja seized is more than the commercial quantity.

7. The petitioner is in custody for more than 1 and ½ years and the trial has not yet been commenced and there is likely less chance 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 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

¹ (1980) 1 SCC 81

case fails to confirm to the aforesaid stand as articulated by the Hon'ble Apex Court.

8. Considering the aforesaid facts and submissions, the BLAPL is allowed.

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

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