

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.604 of 2022

Sunil Raita

....

Petitioner

Mr. A.R. Panda, 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 2(a)C.C. Case No.11 of 2020(N), arising out of P.R. No.104/2020-2021 of EI & EB Unit (S.D.), Berhampur, of the court of learned 3rd Addl. Sessions Judge, Berhampur for commission of offence under Section 20(b)(ii)(C) of the N.D.P.S. Act. He has filed this petition for bail.
4. Brief fact of the case is that on 06.10.2020, at about 8:30 A.M., while the informant along with his staff were performing patrolling duty at Mahuri Kalua Square, noticed one Bolero was parking near the road side from which foul smell of ganja was emitting out. They found two persons inside the Bolero and one jerry basta containing 22 kg of Ganja from their conscious possession.

5. Learned counsel for the petitioner submits that the petitioner is in custody since 06.10.2020 and he is the driver of the vehicle. The petitioner was ignorant about the transporting of contraband article. 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.

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

¹ (1980) 1 SCC 81

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

9. Let the petitioner-Sunil Raita 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

pcd