

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.762 of 2022

Kanha Ram @ Agrawal

....

Petitioner

Mr. J. Samantray, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. G.R. Mohapatra, ASC

CORAM:

JUSTICE S.K. PANIGRAHI

ORDER

16.03.2022

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 being an accused in Nayagarh P.S. Case No.14 of 2021 corresponding to T.R. Case No.63/100 of 2021 of the court of learned Special Judge, Nayagarh for the offence under Section 20(b)(ii)(C) of the NDPS Act, has filed this petition for bail.
4. The prosecution case, as narrated in the FIR, is that on 25.01.2021 at 10.30 P.M., the police, while performing patrolling duty at Daspalla, seized contraband Ganja weighing 62.30 kgs. from the possession of the petitioner and others.
5. Learned counsel for the petitioner submits that the petitioner is in judicial custody since 26.01.2021 and charge-sheet has been filed. He further submits that the petitioner has no criminal antecedent and

trial has not yet started and there is likely less chance of completion of trial in near further. 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 1 year 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 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.

¹ (1980) 1 SCC 81

9. Let the petitioner-Kanha Ram @ Agrawal 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.

iii. he shall appear before the local police station once, on every alternative week, on Sunday.

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