

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.1716 of 2022

Marka Sabar

....

Petitioner

Mr. A.R. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. G.R. Mohapatra, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

08.04.2022

Order No.

01. 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 being in custody in connection with 2(a) C.C. Case No.11 of 2020(N) arising out of E.I. & E.B. Unit, Berhampur P.R. No.104 of 2020-2021 pending in the court of learned Special Judge, Ganjam for the commission of offence under Section 20(b)(ii)(C) of the NDPS Act, has filed this petition for bail.
4. The prosecution case in brief is that on 06.10.2020, at about 8.30 A.M., the petitioner and another were allegedly carrying contraband ganja weighing 22 kg, in one white polythene bag in their car when the informant on his patrolling duty intercepted them near Mohana Chhaka. It is said that the aforementioned contraband ganja was seized from the exclusive and conscious possession of the petitioner and other.
5. The learned counsel for the petitioner submits that the petitioner has been in custody since 06.10.2020 and on suspicion the petitioner

has been entangled in the case. The trial has not been commenced. So, the bail petition may be allowed.

6. The learned counsel for the State vehemently opposes the bail prayer of the petitioner.

7. The petitioner has already spent more than 1 and ½ years in custody without trial being commenced and 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 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. Considering the aforesaid facts and submissions, the BLAPL is allowed.

¹ (1980) 1 SCC 81

9. Let the petitioner 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:

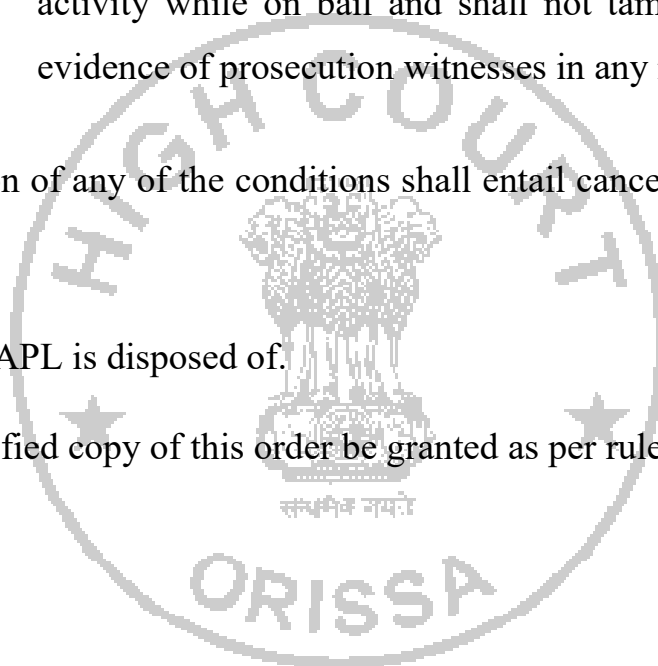
i. he shall appear before the court in seision over the matter on each date of posting of the case till completion of trial;

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