

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.1760 of 2022

MD. Sonu

....

Petitioner

Mr. Dipti Ranjan Bhokta, Adv.

-versus-

State of Odisha

....

Opp. Party

Mr. D. Mund, AGA

CORAM:
DR. JUSTICE S.K. PANIGRAHI

ORDER

22.08.2022

Order
No.

02. 1.This matter is taken up through hybrid mode.
2. Heard learned counsel for the parties.
3. The petitioner being in custody in Machhakund P.s. Case No. 30 of 2020, corresponding to T.R. Case No. 22 of 2020 pending in the court of the learned Additional Sessions Judge-cum-Special Judge, Koraput for the commission of the alleged offence Punishable under Section 20(b)(ii)(C)/29 of N.D.P.S Act, has filed this petition for his release on bail.
4. The allegation of the prosecution is that on 31.03.2020, after having received information regarding transportation of contraband 'ganja' in a Maruti Omini Van bearing Regd. No. OR-15-E-9800 from Jalaput side

towards Similiguda via Sagar, the Police proceeded to Lamtaput-Padwa road near Sagar Chhak. The Police interrupted the said van and upon verification, they found four occupants and four numbers of white coloured tinsel bags from which acute smell of 'ganja' was being emitted. On being asked, all the four occupants of the said Van disclosed their names as Rahidas, Binod Bagh, Ram Rajak and Md. Sonu. The Police investigated and seized 104.700 kg of 'ganja' from the exclusive possession of the accused persons.

5. Learned counsel for the petitioner submits that the Petitioner is the driver of the alleged vehicle. He has been engaged for two days to transport some goods on payment basis. He had no knowledge regarding transportation of contraband 'ganja'. He has been falsely implicated in this case and the petitioner is no way connected with alleged offences as alleged by the prosecution in any manner. Moreover, the Petitioner is in custody since 31.03.2020. Hence, he submits that the Petitioner may be enlarged on bail.

6. Learned counsel for the State vehemently opposes the prayer for bail.

7. The petitioner has already spent more than two and half years in custody and trial has not yet been

commenced. 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 has 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*". Certain provisions of the Cr.P.C. also 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 of 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 Supreme Court. It is a fact that 'Ganja' use has an unintended consequences for the society but detaining the petitioner for such a longer time without trial violates, erodes and simply abandons individual liberty and autonomy.

8. Without going into the merit of the matter at this stage and based on the facts and circumstances of the case as

¹ (1980) 1 SCC 81

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 by the learned court in seisin over the matter with further conditions that:-

- 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. Accordingly, the BLAPL is disposed of.

11. Urgent certified copy of this order be granted on proper application.

(Dr. S.K. Panigrahi)
Judge