

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.1924 of 2022

<i>Ravi Ranjan Kumar</i>		<i>Petitioner</i> <i>Mr. S. Mishra, Adv.</i>
-versus-		
<i>State of Odisha</i>		<i>Opp. Party</i> <i>Mr. D. Mund, AGA</i>

CORAM:
DR. JUSTICE S.K. PANIGRAHI

Order
No.

ORDER
06.07.2022

01. 1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the parties.
3. The Petitioner being in custody in Machhakunda P.S. Case No.50 of 2020 corresponding to Special T.R. Case No.50 of 2020, pending in the court of the learned Additional Sessions Judge-cum- Special Judge, Koraput, registered for the alleged commission of offence under Section 20(b)(ii)(C)/25/29 of the N.D.P.S. Act, has filed this petition for his release on bail.
4. The allegation of the prosecution is that on 22.08.2020 at about 12.30 A.M. while the informant along with other staffs were performing patrolling duty at Sagar Chowk, they got information that 2 nos. of Car were coming in

high speed from Jalaput side to Lamptaput in a suspicious manner. Thereafter, the informant and his staffs detained the said two cars and found that four persons were inside the vehicle. On being asked, they disclosed their names and identities. Further, on being searched, the informant found 3 nos. of bags in the backside seat of Honda BR-V Car bearing Registration No.BR-01PJ 2520 and two nos. of bag in the back seat of another vehicle i.e. Mahindra KUV Car bearing Registration No.BR-01PK-0944. The said bags contained 134 Kgs. 600 gms. of ganja. Thereafter the informant seized the vehicle as well as contraband article and forwarded the accused persons to the court concerned.

5. Learned counsel for the petitioner submits that as per the prosecution case the present petitioner is the driver of Honda BR-V Car bearing Registration No.BR-01PJ-2520 from which 80 kgs. 300 gms. of contraband article was recovered. He being the driver of the vehicle, he was bound to carry on his owner's instruction. Moreover, the contraband article was transported without his knowledge. The petitioner is in custody since 22.08.2020. He further submits that the co-accused has already been released on bail vide order dated 03.03.2022 passed by

this Court in BLAPL No.11144 of 2021. It is a fact that parity is not a matter of right of the petitioner, but in the present case, the principle of parity does deserve some weightage. Hence, he submits that the petitioner may be enlarged on bail.

6. Learned counsel for the State vehemently opposes the prayer for bail stating that the quantity of ganja seized is clearly above the commercial quantity prescribed under the Act which bars granting of bail. He further argues that since the petitioner is an outsider, there is chance of his absconding, if he is released on bail.

7. The petitioner has already spent in custody for about more than one and half year 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 undertrial 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

¹ (1980) 1 SCC 81

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 organised 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. Considering the aforesaid submissions, facts of the case and the period of detention, this BLAPL is allowed with some conditions.

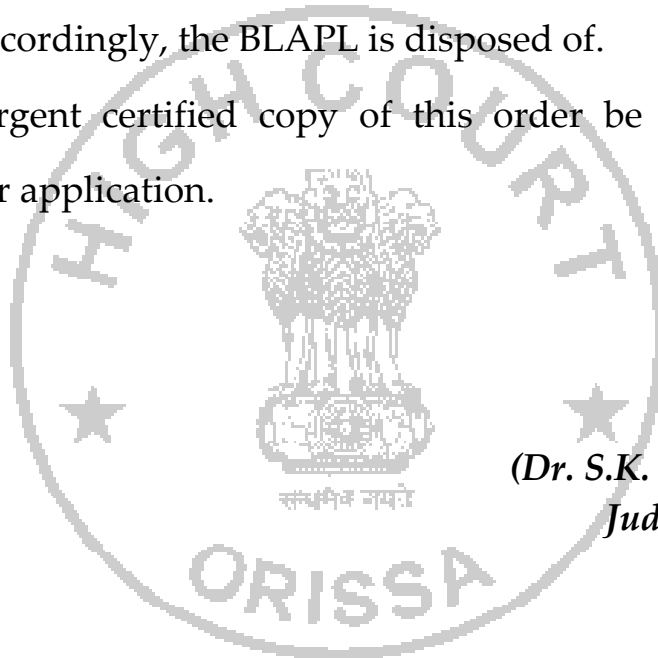
9. Let the petitioner be released on bail in the aforesaid case on furnishing of property surety of Rs.2,00,000/- (rupees lakhs only) along with two local solvent sureties each for the like amount to the satisfaction of the court in seisin over the matter with some stringent terms and conditions as deemed just and proper with further conditions that:

- i. the petitioner shall appear before the court seisin over the matter on each date of posting of the case till completion of trial;
- 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.

10. Violation of any of the conditions shall entail cancellation of the bail.

11. Accordingly, the BLAPL is disposed of.

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



(Dr. S.K. Panigrahi)
Judge

BJ