

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.824 of 2022

Nilkamal Biswas

.... ***Petitioner***
Mr. J.K.Panda, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Ms. Samapika Mishra, ASC

**CORAM:
JUSTICE B. P. ROUTRAY**

ORDER
28.06.2022

Order No.

3.

1. The Petitioner, an accused of offence under Section 20(b)(ii)(C)/25/27-A/29 of the N.D.P.S.Act, has challenged the order of the learned Sessions Judge-cum-Special Judge, Malkangiri dated 4th February, 2022 rejecting his prayer for default bail.

2. The Petitioner along with others was arrested in connection with Orkel P.S.Case No.142 dated 25th August, 2020 for alleged transportation of contraband ganja (cannabis) weighing 453 Kgs. in a truck. He was produced before the Court on 25th August, 2020 and was remanded to the custody. The statutory period of

investigation of 180 days was scheduled to be completed on 20th February, 2021. Before that, on 17th February, 2021, a petition was filed by the Special Public Prosecutor praying for extension of time for investigation. The same was allowed and an extension of 30 days was granted by the learned Special Court. Accordingly, chargesheet was filed on 19th March, 2021.

3. It is submitted on behalf of the Petitioner that such extension of time granted in favour of the prosecution beyond 180 days remanding him in custody is illegal for the reasons; first, no opportunity of being heard was granted in that regard to the Petitioner and secondly, it is without genuine grounds.

4. The ground raised by the Petitioner that no opportunity of hearing was given to him before granting extension of time, is seen incorrect on record. It is clearly mentioned in order dated 17th February, 2021 as well as order dated 4th February, 2022 that a copy of the petition dated 17th February, 2021 of the Special Public Prosecutor has been served on the Petitioner and the learned defense counsel has been heard in the matter. Such observation of the Special Court is never questioned specifically in the petition and no averment is there in the application before this Court refuting such finding of the learned trial court made in

the impugned order dated 4th February, 2022. Therefore, the contention advanced by the Petitioner that he was not granted opportunity of being heard before granting extension of time to the prosecution is not found correct.

5. Next coming to the second contention that the trial court illegally granted extension of time in favour of the prosecution, also does not appear convincing. The reasons mentioned by the prosecution seeking extension of time and as considered by the trial court are that, several accused persons are involved in the transaction and some of them are yet to be arrested and further due to prevalent situations of lockdown and shutdown on account of spread of COVID-19 Pandemic, the process of investigation has been impeded. Thus the reasons considered for extension of time appear genuine on the background of seizure of such huge quantity of contraband weighing 453 Kgs. The petition filed by Public Prosecutor under Annexure-2 is clear on such aspects so also the consequent consideration of the trial court on the same. Therefore, no reason is warranted for interference in the impugned order dated 4th February, 2022.

6. Before parting, one more thing is noticed from the copy of the L.C.R. that, the Petitioner has earlier moved the trial court for his

release on default bail in terms of Section 167(2) of the Cr.P.C. read with Section 36(4) of the N.D.P.S.Act. The said prayer of the Petitioner though has been rejected by the trial court by order dated 1st October, 2021, the Petitioner did not disclose about the same anywhere in his averments before this Court and seemingly suppressed the same.

7. In the result, having scanned the entire impugned order as well as copy of the L.C.R., no ground is made out in favour of the Petitioner to release him on default bail. Accordingly, the prayer is rejected and the CRLMC is dismissed.

(B.P. Routray)
Judge