

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.2845 of 2022

Ramakrishna Kanhar

....

Petitioner

Mr. B. R. Mohanty, Adv.

-versus-

State of Odisha

....Opposite Party

Mr.G.R.Mohapatra, ASC

CORAM:

MR. JUSTICE S.K. PANIGRAHI

Order
No.

ORDER
26.04.2022

01. 1. This matter is taken up through hybrid arrangement.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner being in custody in T.R. Case No.256 of 2020 arising out of Khandagiri P.S. Case No.375 of 2020 pending in the court of learned Sessions Judge, Khurda, Bhubaneswar for commission of offence under Section 20(b)(ii)(C) of N.D.P.S. Act has filed this application under Section 439 of the Cr.P.C. for his release on bail.
4. It is alleged in the F.I.R. that while the petitioner and others were standing at Kalinga Nagar, K-2 Chhak for selling contraband 'Ganja' contained in four bags weighing about 80 kgs. in total, getting such information, the informant along with his other staff proceeded to the spot, recovered and seized the four jari bastas from the conscious possession of the petitioner and others and arrested them for selling such contraband articles above the commercial quantity without any licence.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. He is a permanent resident of his given address. He shall abide by any terms and conditions, if he is released on bail. He has been languishing in custody since 02.07.2020 without being trial. Learned counsel for the petitioner further submits that co-accused persons have been released on bail by this Court vide order dated 12.04.2022 passed in BLAPL No.11439 of 2021.

6. The Petitioner has already spent in custody for about more than one year. The Hon'ble Apex Court, time and again, has expressed displeasure on the delay of trial of the under trial prisoner and his suffering 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 the essence of an organised society and so, 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.

¹ (1980) 1 SCC 81

7. Learned counsel for the State though vehemently opposes the prayer for bail of the petitioners on the ground of commercial quantity but conceded the submission regarding detention of the petitioner in custody for more than one and half year without trial.

8. Considering the submissions made, facts and circumstances of the case as well as period of detention of the petitioner in custody without trial and the fact that the similarly placed co-accused persons have been released on bail, 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. The BLAPL is accordingly disposed of.

11. Issue urgent certified copy of the order as per Rules.

(S.K.Panigrahi)
Judge