

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2966 of 2022

Ashesa Kumar Sahani @ Ashish Kumar Sahani ***Petitioner***

Mr. Niranjana Panda, Advocate
-versus-

State of Odisha ***Opposite Party***
Mr. G.R. Mohapatra, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

29.04.2022

Order No.

01. 1. The 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 2(a)C.C. No.21 of 2020, arising out of Cuttack Excise EI & EB Unit-II PR No.59/2020-21 of the court of learned Special Judge, Cuttack for commission of offence under Section 20(b)(ii)(C) of the N.D.P.S. Act, has filed this petition for bail.
4. The prosecution case, as narrated in the FIR, is that on 08.10.2020, at 4.30 the petitioner along with two persons were carrying contraband ganja weighing 36 kg. in two jari bags in a car. When the informant and his staff were performing patrolling duty, they intercepted the accused persons at Tangi. It is alleged that the contraband ganja was seized from the conscious possession of the petitioner.

5. Learned counsel for the petitioner submits that the petitioner is in custody since 08.10.2020 and the trial has not yet been commenced. He further submits that the petitioner undertakes to abide the terms and conditions imposed on him in case he is released on bail. The co-accused has been released on bail by this Court vide order dated 14.03.2022 in BLAPL No.10454 of 2021.

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

7. The petitioner has already spent in custody for about more than one and ½ 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 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 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 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.

¹ (1980) 1 SCC 81

8. Keeping in view the aforesaid facts and submissions, the BLAPL is allowed.

9. Let the petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin over the matter with further conditions that:-

i. he shall appear before the trial court on each date of posting of the case;

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. The BLAPL is disposed of.

Urgent certified copy of this order be granted as per rules.

(S.K. Panigrahi)
Judge

pcd