

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.3063 of 2022

Khakan Sarkar

....

Petitioner

Mr. Jugala Kishore Panda, Adv.

-versus-

State of Odisha

....

Opposite Party

Mr. G.R. Mohapatra, ASC

CORAM:

MR. JUSTICE S.K. PANIGRAHI

ORDER

02.05.2022

Order No.

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 Mathili P.S. Case No.141 of 2019 corresponding to T.R. Case No.121 of 2020 pending in the court of learned Sessions Judge-cum-Special Judge, Malkangiri for the commission of offences under Sections 20(b)(ii)(C), 25 and 27-A 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 05.10.2020, on getting information regarding illegal transportation of contraband ganja, the police party waited on NH-326 near Baladiaguda and found one four wheeler vehicle coming towards Mathili from Pangam. Thereafter, they caught the accused persons and seized ganja amounting to 30 kg and 500 grams from the offending vehicle.
5. Learned counsel for the petitioner submits that the petitioner is in custody since 05.10.2020 and he has been falsely implicated in the present case. The petitioner has no knowledge

about transportation of ganja in the offending vehicle. It is also submitted that co-accused has already been released on bail by this Court vide order dated 29.04.2022 passed in BLAPL No.3497 of 2022. He further submits that the petitioner undertakes to abide the terms and conditions to be imposed on him in case he is released on bail.

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

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

¹ (1980) 1 SCC 81

8. Considering the aforesaid submissions, facts of the case, the period of detention and the fact that the co-accused has already been released on bail, this BLAPL is allowed.

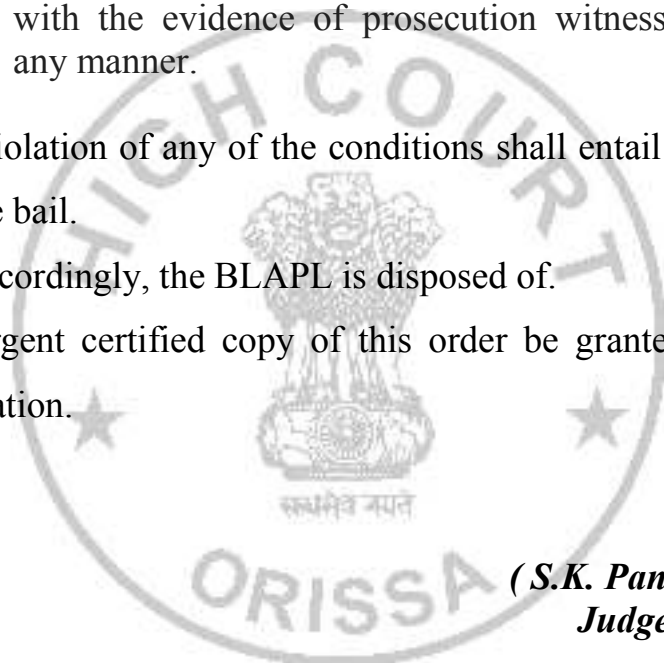
9. Let the petitioner be released on bail in the aforesaid case on such terms and conditions deemed just and proper by the court in *seisin* over matter with further conditions that:

- i. the petitioner shall appear before the trial court on each date of posting of 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. Accordingly, the BLAPL is disposed of.

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



(S.K. Panigrahi)
Judge

BJ