

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**BLAPL No.3305 of 2022**

*Aasu Nayak*

....

*Petitioner*

*Mr. S.K. Nayak, Adv.*

-versus-

*State of Odisha*

....

*Opp. Party*

*Mr.G.R. Mohapatra,  
ASC*

**CORAM:**  
**DR. JUSTICE S.K. PANIGRAHI**

**ORDER**  
**03.08.2022**

**Order**  
**No.**

02. 1.This matter is taken up through hybrid mode.
2. Heard learned counsel for the parties.
3. The petitioner being in custody in Nabarangpur P.S. Case No. 195 of 2020, corresponding to T.R. Case No. 18 of 2020 pending in the court of the learned Sessions Judge-cum-Special Judge, Nabarangpur, commission of the alleged offence Punishable under Section 20(b)(ii)(C) of N.D.P.S Act, has filed this petition for his release on bail.
4. On perusal of the materials on record, the facts are such that on 27.08.2020, at about 1.50 P.M., the petitioner and the other co-accused were transporting contraband

‘ganja’ weighing 102kg and 760 grams by two cars when the police apprehended the vehicles and recovered the aforementioned narcotic substances from the possession of the petitioner at Tribeni Chowk, Nabarangpur. Accordingly, the F.I.R. was lodged.

5. Learned counsel for the petitioner submits that the Petitioner has been falsely implicated in this case and the petitioner is no way connected with alleged offences as alleged by the prosecution in any manner. Moreover, the Petitioner is in custody since 28.08.2020. Hence, he submits that the Petitioner may be enlarged on bail.

6. Learned counsel for the State vehemently opposes the prayer for 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*<sup>1</sup> 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

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<sup>1</sup> (1980) 1 SCC 81

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 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 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. Without going into the merit of the matter at this stage and based on the facts and circumstances of the case as well as period of detention of the petitioner in custody without trial, 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;

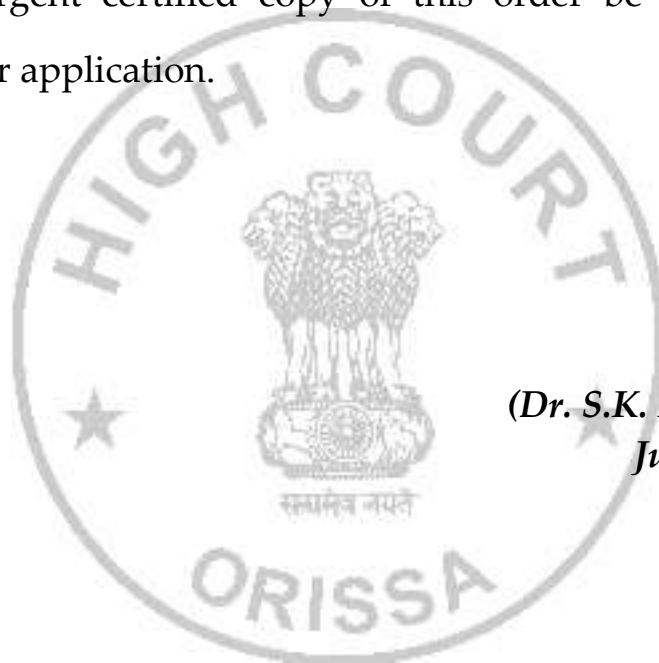
ii. he shall not indulge himself in any criminal offence while on bail and

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. Accordingly, the BLAPL is disposed of.

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



**(Dr. S.K. Panigrahi)**  
**Judge**

SD