

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3335 of 2022

<i>Tapan Das @ Ray @ Tapu</i>		<i>Petitioner</i>
		Mr. S. Udgata, Advocate
	-versus-	
<i>State of Odisha</i>		<i>Opposite Party</i>
		Mr. G.R. Mohapatra, ASC

CORAM: MR. JUSTICE S. K. PANIGRAHI

Order
No.

ORDER
19.05.2022

01. 1. This 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 connection with Malkangiri P.S. Case No.301 of 2020 corresponding to T.R. Case No.86 of 2020 pending in the court of learned Sessions Judge-cum-Special Judge, Malkangiri for the alleged commission of offence under Sections 20(b)(ii)(C) and 27-A of the N.D.P.S Act, has filed this application under Section 439 Cr.P.C. for his release on bail.
4. The case of the prosecution, in brief, is that while the informant along with his staff was performing patrol duty near Padmagiri, on getting information about selling of contraband ganja in an open space inside the jungle near village Kanjali, they proceeded to the spot, found a group of persons packing 'ganja' in the jungle. On seeing the Police, all the accused persons fled away from the spot. On enquiry, the police came to know about the involvement of five persons including the present petitioner in commission of the alleged offence. During course

of investigation, they seized huge quantity of ganja weighing 419 Kg and 900 grams from the spot.

5. Learned counsel for the petitioner submits that the petitioner has been implicated in the case on the basis of the confessional statement of the co-accused without any proper evidence and he is in custody since 20.10.2020. The investigation of the case is completed and charge-sheet has been filed. However, the trial has not yet started.

6. Learned counsel for the State 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 and there is less likelihood of completion of trial in the near future. 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. Considering the aforesaid submissions, facts of the case and the period of detention, 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