

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 3429 of 2022

Umeshwara Gutha @ Umesh ***Petitioner***

Mr. Ananta Narayan Pattanayak,
Adv.

-versus-

State of Odisha

Opp. Party
Mr. G.R. Mohapatra,
ASC

CORAM:
DR. JUSTICE S.K. PANIGRAHI

ORDER
10.08.2022

Order
No.

06.

1. This matter is taken up through hybrid mode.
2. Heard.
3. The Petitioner being in custody in Semiliguda P.S. Case No. 55 of 2020 corresponding to T.R. Case No. 32 of 2020, pending in the court of the learned Additional Sessions Judge-cum- Special Judge, Koraput, registered for alleged commission of offence under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985(hereinafter referred to as "the N.D.P.S. Act" for brevity, has filed this petition for his release on bail.
4. The allegation of the prosecution, in brief, is that on 24.06.2020, the informant Bhagaban Mishra, S.I. of Police, Semiliguda Police Station, District- Koraput and other

staff proceeded to Kokriguda Chhak after getting reliable information about transportation of huge quantity of ganja in a golden brown colour Eicher vehicle bearing Registration No. OD-02-BH-0911. At about 10.10 A.M., they detected the Eicher vehicle and detained it. The present petitioner and co-accused Susanta Kumar Sahoo were boarded on the said vehicle. They recovered 12 numbers of Jari bags containing 354 Kgs. Of ganja from said vehicle driven by the present petitioner and said Sushanta Kumar Sahoo who was the brother-in-law of the owner of the vehicle. Both accused persons could not produce lawful authority for such possession and transportation of said ganja. Thereafter, after observing all formalities, they arrested the petitioner and forwarded him to the court.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. The petitioner was a mere driver of the offending vehicle. As per the instruction of brother-in-law of the owner of the vehicle, he was driving the vehicle. Further, the petitioner had no knowledge about the presence of contraband articles to have been loaded in the said vehicle and nothing has been seized from his conscious possession of the present petitioner. He is a poor man of locality who eke out his living from the profession of driving.

6. It is further submitted that the petitioner has already spent in custody for more than two years and trial has not yet been commenced though charge sheet has already been submitted and charge has been framed against the petitioner. Moreover, there is less likelihood of completion of trial in the near future.

7. The Hon'ble Apex Court, time and again, has expressed displeasure on the delay of trial of the under trial prisoners and their suffering 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 would 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. It is a fact that 'Ganja' use has an intended 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. Learned counsel for the State vehemently opposes the prayer for bail of the petitioner but concedes the detention of the petitioner in custody for more than two years.

9. 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.

10. Violation of any of the conditions shall entail cancellation of the bail.

11. The BLAPL is accordingly disposed of.
12. Issue urgent certified copy as per Rules.

SD

(Dr. S.K. Panigrahi)
Judge

