

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4021 of 2022

Loknath Harijan

....

Petitioner

Mr. R.L. Pattnaik, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. G.R. Mohapatra, ASC

CORAM: MR. JUSTICE S. K. PANIGRAHI

Order
No.

ORDER
18.05.2022

- 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 Mathili P.S. Case No.146 of 2020 corresponding to Special T.R. Case No.125 of 2020, pending in the court of learned Special Judge, Malkangiri for the commission of offence under Sections 20(b)(ii)(C) and 25 of the NDPS Act, has filed this petition for bail.
4. The allegation of the prosecution is that while the police were on patrolling duty, they received information regarding illegal transportation of ganja. The police saw that two motorcycles were coming with two bags. On suspect, police detained and searched as well as found 52.100 kg of ganja.
5. Learned counsel for the petitioner submits that the petitioner is in custody since 09.10.2020 and charge-sheet has been filed. The petitioner has been arrested upon the statement of the co-accused and

nothing has been recovered from him. The trial has not yet been commenced. So, the bail petition may be allowed.

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.

8. Considering the aforesaid submissions, facts of the case and the period of detention, the BLAPL is allowed.

¹ (1980) 1 SCC 81

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:-

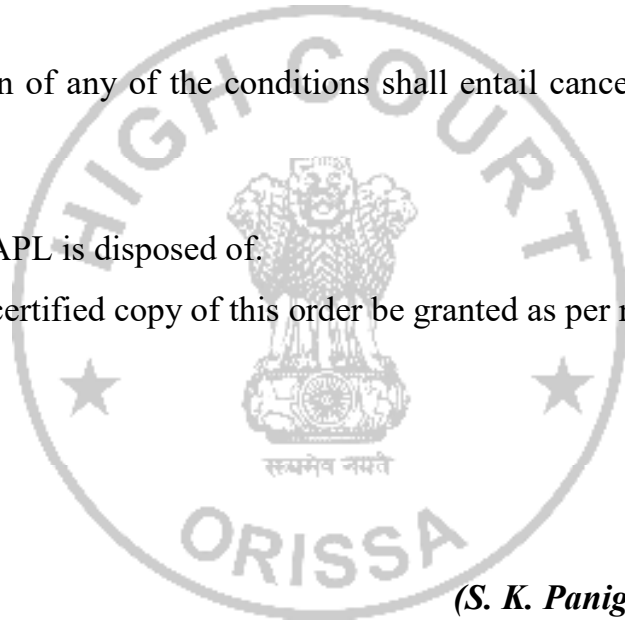
i. he shall appear before the trial court on each date of posting of the case;

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