

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.4259 of 2022

Bharat Meher

....

Petitioner

Mr.S.K. Mishra, Adv.

-versus-

State of Odisha

....

Opp. Party

*Mr.G.R. Mohapatra,
ASC*

CORAM:
DR. JUSTICE S.K. PANIGRAHI

ORDER
11.07.2022

Order
No.

04. 1.This matter is taken up through hybrid mode.
2. Heard.
3. The petitioner is arrayed as accused in connection with Boudh P.S. Case No. 393 of 2021 (Spl. Case No 47 of 2021, NDPS Act) now pending before the learned Addl. Sessions Judge-cum-Special Judge, Boudh for committing the offences punishable Under Section 20(b)(ii) C and 29 of the NDPS Act. 1985.
4. The prosecution story in nut shell is that on 30.08.2021 at 2.40 PM the informant along with her staffs, reached at tangarashahi chack. As per earlier information about at 3.00 PM one white colour Maruti Suzuki Omni bearing

Regd No. OD 15D 4245 came from Baghiapada side. Then thereafter they stop the said vehicle and found 3 persons inside the vehicle and also found two numbers of plastic bags filled contraband ganja under the backside seats of the vehicle. The total bulk ganja weighted 25 kg 100grams.

5. The learned counsel submits that the petitioner has falsely implicated in this case and nothing was seized from him and also he has no criminal antecedent. He has been languishing in custody since 09.11.2020. It is further submitted that co-accused person who is similarly situated with the petitioner, has already been enlarged on bail by order of this Court vide order dated 06.04.2022 in BLAPL No. 8780 of 2021. It is a fact that parity not a matter of right of the petitioner but in the present case the principle of parity does deserve some weightage.

6. It is further submitted that the petitioner has already spent in custody for more than one and half years 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 under trial 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. 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.

7. 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 one and half years.

8. Considering the aforesaid submissions, facts of the case and the period of detention of the petitioner in custody without trial, this BLAPL is allowed.

9. Let the petitioner be released on bail in the aforesaid case on such stringent terms and conditions deemed just and proper by the Court in seisin over the 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.

(Dr. S.K. Panigrahi)
Judge