IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO. 4576 of 2022

Gangadhar Pradhan …. ***Petitioner***

Mr.B.R.Tripathy, Adv.

-versus-

State of Odisha ….***Opposite Party***

Mr.G.R.Mohapatra, ASC

CORAM:
JUSTICE S.K. PANIGRAHI

ORDER
30.06.2022

Order No.

01. 1. This matter is taken up by hybrid mode.

2. Heard learned counsel for the petitioner and learned counsel for the State.

3. The petitioner being in custody in connection with Boudha P.s. Case No. 72 of 2021 corresponding to Special Case (NDPS) No.12 of 2021, pending in the court of the learned District Judge-cum-Special Judge, Boudh, registered for the alleged commission of offence under Section 20(b)(ii)(C) of the NDPS Act, has filed this has filed this petition for his release on bail.

4. The prosecution case, in short, is that on 14.03.2021, while the informant and his staff were performing patrolling duty, detected one black colour motor cycle bearing Regd. No.OD-27-A-4490 being driven by the petitioner and its pillion rider was carrying two number of jerry bags. On seeing the Police team, the pillion rider jumped from the motorcycle and escaped from the

spot. However, the said two jerry bags containing 35 Kgs 100 grams of ganja left by the pillion rider were recovered and seized from the possession of the petitioner. Thereafter, the petitioner was arrested for non production of the authenticated document for such possession.

5. Learned counsel for the petitioner submits that the petitioner is the rider of black colour motor cycle bearing Regd. No.OD-27-A-4490. He has been falsely implicated in this case. The contraband ganja which has been recovered and seized, was in possession of pillion rider. As he escaped from the spot, the police team presuming to have possessed two such bags of contraband articles, arrested him on 14.03.2021. Since then he has been languishing in jail custody.

6. It is further submitted that the petitioner has already spent in custody for about two 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

[1] (1980) 1 SCC 81

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 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.

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 year.

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. The BLAPL is accordingly disposed of.

11. Issue urgent certified copy as per Rules.

(S.K.Panigrahi)
Judge

HIGH COURT
ORISSA

LB