

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.4760 of 2022

Manoj Digal

....

Petitioner

Mr. A.R. Panda, Adv.

-versus-

State of Odisha

....

Opp. Party

*Mr. G.R. Mohapatra,
ASC*

CORAM:
DR. JUSTICE S.K. PANIGRAHI

ORDER
13.09.2022

Order
No.

- 03.
1. This matter is taken up through hybrid mode.
 2. Heard learned counsel for the parties.
 3. The petitioner being in custody in connection with Phiringia P.S. Case No. 57 of 2020 corresponding to C.T. Case No. 36 of 2020, pending in the court of the learned Additional District & Sessions Judge-cum-Special Judge, Phulbani for commission of offences under Sections 20(b)(ii)(C)/29/25 of the NDPS Act.
 4. It is alleged that on 08.07.2020 at about 5.P.M. the informant received a credible information that three persons are in possession of huge quantity of "Ganja" and transporting the same by means of UBER Car

bearing Regd. No. OD-33X-1003 and one person was escorting the said vehicle. Thereafter, they detained the said vehicles and on search, they found huge quantity of contraband 'Ganja' weighing about 101kg. 300grams. 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 was chance occupant of the alleged vehicle being driven by another accused Aman Digal against whom N.B.W. has been issued. The petitioner was caught by the police on suspicion while he was travelling in the alleged vehicle because of non-availability of transportation facilities to his destination. It is further submitted that the petitioner had no knowledge about the loading of contraband 'Ganja' in the same vehicle wherein he was travelling as a chance occupant. Nothing has been seized from his conscious possession. Moreover, the petitioner has been languishing in custody since 08.07.2020 without trial being commenced for such a long time despite submission of charge sheet and no single witness out of sixteen witnesses has been examined so far which is revealed from the update status report. Learned counsel for the petitioner submits that in case he is

released on bail, he shall abide by any terms and conditions as imposed on him.

6. Learned counsel for the State vehemently opposes the prayer for bail.

7. The petitioner has already spent more than two and half years in custody and trial has not yet been commenced. 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 has 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*". Certain provisions of the Cr.P.C. also 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 of 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 Supreme

¹ (1980) 1 SCC 81

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.

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. Accordingly, the BLAPL is disposed of.

11. Urgent certified copy of this order be granted on proper application.

(Dr. S.K. Panigrahi)
Judge

SD

