

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO. 4121 of 2021

Jeetendra Digal

....

Petitioner

Mr.S.K.Bhanjadeo,
Adv.

-versus-

State of Odisha

....*Opposite Party*

Mr.G.R.Mohapatra, ASC

CORAM:

JUSTICE S.K. PANIGRAHI

Order
No.

ORDER

08.08.2022

03. 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 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 while the S.I. of Police, Phiringia P.S. along with his staff were performing patrol duty on 08.07.2020 at about 5.30 A.M. 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-33-X-1703 and one Bike Splendor Plus bearing Regd. No.OD-12-C-6177 escorting the said vehicle. Thereafter, they detained the said vehicles and on search, they found two bags containing huge quantity of 'Ganja' weighing about 101Kg. 300 grams. 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. 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 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

¹ (1980) 1 SCC 81

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 two years.

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 with 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



LB