

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 5244 of 2022

Sajid Badabura

....

Petitioner

Mr.B.K. Mishra, Adv.

-versus-

State of Odisha

....

Opp. Party

*Mr.G.R. Mohapatra,
ASC*

CORAM:
DR. JUSTICE S.K. PANIGRAHI

ORDER

21.09.2022

Order
No.

01. 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 Sunabeda P.S. Case No.20 of 2021 corresponding to T.R Case No.19 of 2021 pending in the Court of the learned Additional Sessions Judge-cum-Special Judge, Koraput for the commission of offences under Sections 20(b)(ii)(C) of NDPS Act has prayed for his release on bail.

4. It is alleged that on 04.02.2021, on getting information regarding illegal transportation of Ganja, the informant detained a Bolero vehicle bearing Regd. No.OR 08 E 7300 and one Eicher Vehicle bearing Regd. No.OD 02 A 3954. On search, they found two persons in Bolero and four persons in Eicher vehicle who were the occupants including the drivers. On search, they found nine numbers of bundles from Bolero each containing 5 kg. 100 grams and 23 numbers of bundles from the Dala of the Eicher containing 5 kg. 100 grams each, in total 162 Kg. 800 grams including the jerry bags. On being asked, the accused persons disclosed their identity but failed to produce any documents regarding authorization for transportation of such contraband Ganja.

5. Learned counsel for the petitioner submits that the petitioner has no nexus in the alleged offence. The petitioner has been falsely implicated in this case due to the ulterior motive of the informant. The basic ingredients are not at all attributed against the petitioner for the alleged offence. The petitioner is languishing in custody since 04.02.2021. He further submits that the co-accused has already released on bail vide order dated 12.04.2022 passed by this court in BLAPL No. 3193 of 2021

6. Learned counsel for the State opposes the bail prayer of the petitioner as the quantity of ganja seized is more than the commercial quantity.

7. The petitioner has already spent more one 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 Court. It is a fact that 'Ganja' use has an unintended consequences for the society but detaining the petitioner

¹ (1980) 1 SCC 81

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 facts and circumstances of the case and the period of detention, 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

SD