

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL NO. 5478 OF 2021

Banamali Khara @ Bana ***Petitioners***
Mr. Ananta Narayan Pattanayak,
Adv.

-versus-

State of Odisha ***Opposite Party***
Mr. G.R. Mohapatra, ASC

CORAM:
MR. JUSTICE S.K. PANIGRAHI

ORDER
05.05.2022

Order No.

03.

1. This matter is taken up by hybrid mode.
2. Heard Mr. Ananta Narayan Pattanayak, learned counsel for the Petitioner and Mr. G.R. Mohapatra, learned Additional Standing Counsel for the State.
3. The Petitioner is an accused in T.R. Case No.33 of 2020 arising out of Pottangi P.S. Case No.57 of 2020 of the file of learned Additional Sessions Judge-cum-Special Judge, Koraput for commission of offence under Section 20(b)(ii)(C) of NDPS Act.
4. The brief fact of the case is that on 24.06.2020 at about 8.30 A.M. as per previous information, during checking on NH-26 near Mini Stadium, Pottangi, one white colour Maruti Suzuki SX-4 car being Registration No. OD-02-BA-4900 was detained along with its two occupants by the Police of Pottangi Police Station. During search on suspicion of the said vehicle, they found 22 bundles covered with brown colour cello tape kept in concealing manner from which acute smell of Ganja was coming out. Both the occupants of the vehicle gave their identity before the Police and ascertained their

names and address. The Police followed all the procedures and conducted search and seizure in presence of EM and witnesses. The total net weight of contraband 'Ganja' is 107 Kgs.

5. Learned counsel for the Petitioner submits that the petitioner has been falsely implicated in this case. He was only occupant in the vehicle. He has no role in transporting the 'Ganja'. One co-accused namely, M.Satyanarayan Reddy, who is similarly situated with the present petitioner, has already been released on bail vide in BLAPL No.6776 of 2021. Additionally, charge sheet has already been filed in the case. The petitioner has been languishing in custody since 24.06.2020.. He is ready and will to abide by any terms and conditions in the event of his release on bail.

6. Learned counsel for the State though vehemently opposed the bail but concedes the factum of release of co-accused.

7. The petitioner has already spent in custody for about moiré than 1 and ½ year and trial has not yet been commenced. 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 undertrial 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

¹ (1980) 1 SCC 81

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.

8. Considering the aforesaid facts and submissions made as well as detention of the petitioner in custody without delay, it is directed that the Petitioner be released on bail in the aforesaid case by the Court in *seisin* of the matter on such terms and conditions as deemed just and proper subject to 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 in similar activities in future; and
- iii. he shall not tamper with the evidence of the prosecution witnesses in any manner.

Violation of any of the conditions shall entail cancellation of the bail.

9. Accordingly, the BLAPL is disposed of

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

(S.K. Panigrahi)
Judge