

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.6836 of 2022

Harendra Singh

.... *Petitioner*

Mr.Pradipta Beura, Adv.

-versus-

State of Odisha & Ors.

.... *Opposite Parties*

Mr. G.R.Mohapatra,
ASC

CORAM:
DR. JUSTICE S.K. PANIGRAHI

Order
No.

ORDER
12.10.2022

- 03.
1. This matter is taken up through hybrid arrangement.
 2. Heard learned counsel for the petitioner and learned counsel for the State.
 3. The petitioner being in custody in connection with Kakiriguma (Koraput) P.S. Case No.57 of 2020 corresponding to T.R. Case No.34 of 2020, pending in the court of learned Additional Sessions Judge-cum-Special Judge, Koraput, registered for the alleged commission of offence under Sections 20(b)(ii)(C), 25 & 29 of the NDPS Act, has filed this petition for his release on bail.
 4. The allegation of the prosecution is that on 24.06.2020 at about 11 A.M., the Police proceeded to Goudaguda

receiving an information regarding alleged transportation of ganja in a Bolero Van. It was alleged that about 12.30 P.M., the police detected the Bolero pick up van bearing Regd. No. OD-14H-4170 moving towards Gudaguda and detained the said vehicle wherefrom they recovered five jari bags containing 148.80 Kg. of ganja in toto and seized the same . There after arrested them and forwarded to the court after observing all formalities.

5. Learned counsel for the petitioner submits that the prosecution allegations leveled against the present petitioner is false, baseless and concocted. There is no material evincing that the petitioner is connected with the offence a alleged by the prosecution. Furthermore, the petitioner did not hold conscious possession of the contraband articles and no prima facie case is made against the present petitioner. Though the investigation in the case is already over and charge-sheet has already been filed, the trial is yet to commence in the present case.

6. It is further submitted that two co-accused who are similarly situated with the petitioner, have already been enlarged on bail by order of this Court vide order dated 19.05.2022 in BLAPL No.11659 of 2021 and order dated 27.09.2022 in BLAPL No.7512 of 2022. He has been languishing in custody since 25.06.2020. It is a fact that

parity not a matter of right of the petitioner but in the present case the principle of parity does deserve some weightage.

7. It is further submitted that the petitioner has already spent in custody more than 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 possible. The present case fails to confirm to the aforesaid stand as articulated by the Hon'ble Apex Court. It is a fact

¹ (1980) 1 SCC 81

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. 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.

9. 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 by the learned court in seisin over the matter since the petitioner belongs to State of Bihar and there is likelihood of fleeing from justice 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.

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

11. The BLAPL is accordingly disposed of.

12. Issue urgent certified copy as per Rules.

(Dr. S.K. Panigrahi)
Judge

LB

