

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.7060 of 2022

Tutu Tandi

....

Petitioner

Mr.S.K. Dash, Adv.

-versus-

State of Odisha

....

Opp. Party

*Mr.G.R. Mohapatra,
ASC*

CORAM:
DR. JUSTICE S.K. PANIGRAHI

ORDER
12.08.2022

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 Phiringia P.S. Case No.85 of 2020 corresponding to C.T. Case No.57 of 2020 pending in the court of learned Special Judge, Phulbani for the alleged commission of offence under Sections 20(b)(ii)(C) and 29 of the N.D.P.S. Act has filed this petition for his release on bail.
4. The prosecution case, as narrated in the FIR, is that on 17.10.2020 at 5.30 A.M. the informant-Pradeep Kumar Raul, S.I. of Phiringia P.S. received information that four persons are in possession of quantity of ganja and were

transporting the same by means of a Pulser bike bearing Registration No.OD-03-P-4381 and another Pulser bike without number and they were to pass through Masiripada Chhak. Then, the informant along with his staff proceeded to Masiripada Chhak and detained both the motorcycles along with its rider and pillion rider. The informant seized 51 kg. 300 grams from each of the bike, totaling 102 kg. 600 gms including the bags from the possession of the petitioner and co-accused persons.

5. Learned counsel for the petitioner submits that the petitioner has been in custody since 17.10.2020 and there is no specific overt act attributed against the petitioner. He further submits that 51 kgs of ganja has been seized from the possession of the present petitioner. The prosecution has unnecessarily totaling into more than 100 kgs., which is wrong. The trial has not yet been commenced. So, the petitioner deserves to be released on bail.

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 in custody for about more than one and half year 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 undertrial 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 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.

¹ (1980) 1 SCC 81

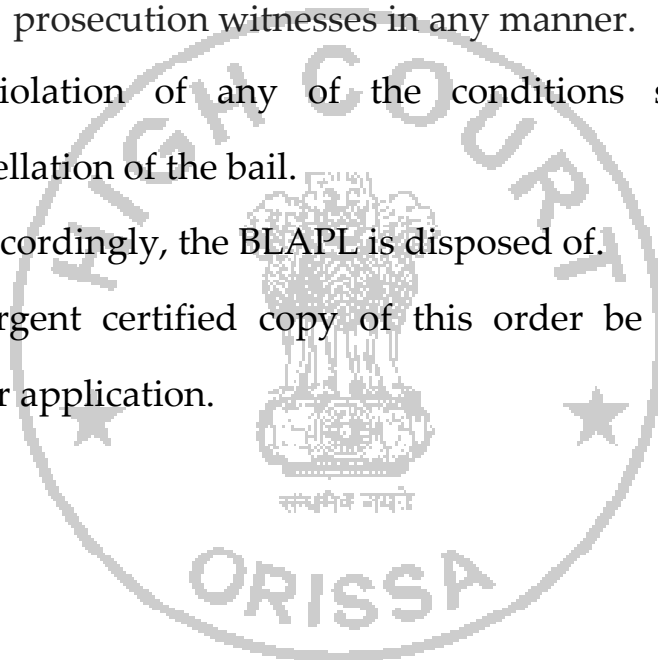
9. Let the petitioner be released on bail in the aforesaid case on such stringent terms and conditions deemed just and proper by the court in *seisin* over the matter with further conditions that:

- 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