

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 7568 of 2022

Sahil Siddique

....

Petitioner

Mr. Ananta Narayan Pattanayak,
Adv.

-versus-

State of Odisha

....

Opp. Party

Mr. G.R. Mohapatra,
ASC

CORAM:

DR. JUSTICE S.K. PANIGRAHI

ORDER

01.11.2022

Order
No.

02. 1.This matter is taken up through hybrid mode.
2. Heard learned counsel for the parties.
3. The petitioner is an accused in T.R. Case No.20 of 2019 arising out of Semiliguda P.S. Case No.79 of 2019 on the file of learned Additional Sessions Judge-cum-Special Judge, Koraput for the alleged commission of offence under Section 20(b)(ii)(C) of the NDPS Act. He has filed this petition for bail.
4. It is alleged in the FIR that on 30.08.2019 at about 1.30 P.M. the petitioner was transporting contraband ganja weighing 83 kgs. 70 gram in a cement colour Honda City

car bearing Redg No. DL-3C-AK-8760. On getting information, the S.I. of police along with staff of Semiliguda P.S. proceeded to the spot and detained the said car with jerry bags containing the aforesaid weighed ganja.

5. Learned counsel for the petitioner submits that the petitioner is in custody since 30.08.2019 and there is no specific allegation against the petitioner with regard to his participation in the alleged crime. Moreover, the petitioner has been languishing in custody without trial being commenced for such a long time despite submission of charge sheet and only four witnesses 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. Learned counsel for the State vehemently opposes the prayer for bail.

7. The petitioner has already spent more than three 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 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 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

¹ (1980) 1 SCC 81

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 the evidence of the prosecution evidence in any manner.

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

10. Accordingly, the BLAPL is disposed of.

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

(Dr. S.K. Panigrahi)
Judge

SD