

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6641 of 2021

Manir Khan

....

Petitioner

Mr. D. R. Bhokta, Advocate

-versus-

State of Odisha

....

Opposite Party

Sk. Zafrulla, ASC

CORAM:

JUSTICE S.K. PANIGRAHI

ORDER

09.03.2022

Order No.

02. 1. The matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is in judicial custody in connection with Laxmisagar P.S. Case No.329 of 2020 corresponding to T.R. Case No.463 of 2020 of the court of learned Addl. Sessions Judge, Khurda at Bhubaneswar for the commission of offence under Section 20(b)(ii)(C) of the NDPS Act. He has filed this petition for his release on bail.
4. The prosecution case, in short, is that while the informant-S.I. along with staff were performing patrolling duty, they found four persons in two motor cycles were coming from Badagada loaded with something. The police intercepted and on asked, the accused persons disclosed their names and also admitted that they are in possession of contraband articles like Ganja in two jerry bags with

two motors cycles containing 41 kgs. 350 gm and 42 kegs respectively.

5. Learned counsel for the petitioner submits that the petitioner has been in custody since 01.12.2020. The petitioner has no knowledge about transportation of contraband Ganja. In the meantime, charge-sheet has been filed and the trial has not yet commenced. So, the bail petition may be allowed.

6. Learned counsel for the State vehemently opposed the bail prayer of the petitioner.

7. The petitioner has already spent in custody for about more than one year and trial has not yet 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 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

¹ (1980) 1 SCC 81

early as possible. The present case fails to confirm to the aforesaid stand as articulated by the Hon'ble Apex Court.

8. Keeping in view the aforesaid facts and submissions and the period of detention of the petitioner in judicial custody without trial having commenced, the BLAPL is allowed.

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

i. he shall appear before the trial court on each date of posting of the 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. The BLAPL is disposed of.

Urgent certified copy of this order be granted as per rules.

(S.K. Panigrahi)
Judge

pcd