

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7265 of 2021

Pitara Barik

....

Petitioner

Mr. H.N. Mohapatra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. G.N. Mohapatra, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

19.05.2022

Order No.

10. 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 custody in Damanjodi P.S. Case No.50 of 2020 corresponding to T.R. Case No.35 of 2020 of the court of learned Addl. Sessions Judge-cum-Special Judge, Koraput for the 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 24.06.2020, the informant and his staff, while performing patrolling duty, received information regarding transportation of contraband Ganja in a Max Pick Up Van from Koraput to Kakriguma. They proceeded to Koraput and detained the said vehicle along with three occupants. On being asked, the three occupants disclosed their names and 122 kg. 205 grams of ganja was seized from the said vehicle.

5. Learned counsel for the petitioner submits that the petitioner has been in custody since 24.06.2020. The petitioner was a driver of the offending vehicle and he was carrying out the instructions of the owner. He did not know what is kept in the offending vehicle. The investigation of the case is completed and charge-sheet has been filed. However, the trial has not yet started.

6. Learned counsel for the State opposes the bail prayer of the petitioner.

7. The petitioner has already spent in custody for about more than 1 and ½ 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 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 early as possible. The present

¹ (1980) 1 SCC 81

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

8. Considering the aforesaid submissions, facts of the case and the period of detention, the BLAPL is allowed.

9. Let the petitioner be released on bail in the aforesaid case on such 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