

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 8419 of 2022

Sandh Gamango

....

Petitioner

Mr. B.R. Tripathy, Adv.

-versus-

State of Odisha

....

Opp. Party

Mr.D. Mund, ASC

CORAM:
DR. JUSTICE S.K. PANIGRAHI

ORDER
23.09.2022

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 R. Udayagiri P.S. Case No.54 of 2020, corresponding to G.R. Case No.40 of 2020, pending in the court of learned Additional Sessions Judge-cum-Special Judge, Paralakhemundi, Gajapati for the commission of offence under Sections 20(b)(ii)(C), 25 and 29 of the N.D.P.S. Act has filed this petition for his release on bail.

4. The prosecution case, in nutshell, is that on 11.08.2020 during police patrolling, the patrolling team found one vehicle i.e. white colour swift Dezire car bearing Regd. No. MH-01-BD-8887 with six occupants sitting including driver in the vehicle. In front seat, one person was sitting at the side of the driver and four persons were sitting in the rear side of the car. On suspicion, the informant along with PS staff signaled to stop the vehicle before Rani Chhak Ghat but the driver did not obey the police signal. Police chased the vehicle and detained at Rani Chhak Ghat at about 9:00 AM. On suspicion, the informant along with staff when detained the vehicle, one person from the front seat of the car ran away towards the nearby jungle. During checking, police found five persons were sitting inside the vehicle including the driver and six number of jerry bags were found in the back side of the car from emitting acute smell of 'ganja'. During thorough checking one secret chamber was found in the back side of the back seat of the car, filled with loose contraband 'ganja'. Being asked, the occupants disclosed their identities on interrogation. They also failed to produce any license or document justifying of the possession of the contraband article. It is alleged that on being searched, the total ganja seized from the car with bag is 100.700 kgs.

5. Learned counsel for the petitioner submits that the petitioner has no nexus in the alleged offence. The petitioner has been falsely implicated in this case due to the ulterior motive of the informant. The basic ingredients are not at all attributed against the petitioner for the alleged offence. The petitioner is languishing in custody since 11.08.2020. He further submits that the co-accused has already released on bail vide order dated 24.08.2022 passed by this court in BLAPL No. 4443 of 2021.

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 more two years 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

¹ (1980) 1 SCC 81

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.

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

