

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8436 of 2022

Sanjaya Sahani

....

Petitioner

Mr. Parsuram Panda, Advocate

-versus-

State of Odisha

....

Opposite Part

Mr. S.Mishra, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

27.09.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Additional Standing Counsel.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The petitioner being in custody in connection with Sarangada P.S. Case No.81 of 2021 corresponding to C.T. Case No.46 of 2021, pending in the court of the learned Special Judge-cum-Additional District and Sessions Judge, Baliguda, registered for the alleged commission of offence under Sections 20(b)(ii)(C)/25/29 of the NDPS Act, has filed this petition for his release on bail.
5. The allegation of the prosecution is that on 24.08.2021, at about 4.10 P.M., the police proceeded to Bandaguda Ghati receiving information regarding alleged transportation of ganja in a Indigo Car. It was alleged that about 4.45 P.M., the police

detected the Indigo Car moving towards Bandaguda Ghati and detained the said vehicle and found five jari bags kept in the dala of the said van. The police seized 109 K.G. 690 grams of ganja from the accused persons.

6. Learned counsel for the petitioner submits that the petitioner is the driver of the offending vehicle and he was carrying out the instructions of the owner. He has no knowledge about the transportation of the ganja in the said vehicle. Though the investigation in the case is already over and charge-sheet has already been filed, the trial is yet to commence in the present case. The petitioner is in custody since 24.06.2020.

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

8. 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 ; (1980) 1 SCC 81 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 case fails to confirm to the aforesaid stand as articulated by the Hon'ble Apex Court.

9. Having heard learned counsel for the parties and considering the fact that trial is not likely to be concluded in near future, the Petitioner is directed to be released on bail on furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter. Out of two sureties, one shall be of the relation of the Petitioner. Further in addition to the same, the Petitioner shall also furnish a cash security of Rs.20,000/- (rupees twenty thousand) before the Court in seisin over the matter subject to following conditions that :-

- i) The petitioner shall not involve himself in any other offence during the period of bail.
- ii) He shall appear before the trial court on each and every date as fixed by the Court.
- iii) He shall not tamper with the prosecution evidence.
- iv) He shall not influence or threaten any prosecution witness and cooperate with the investigation.
- v) He shall provide his present address and mobile number to the I.O. and if any changes therein shall also be intimated to the I.O.
- vi) He shall not leave the jurisdiction of the court without special permission from the court; and

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

10. It is further directed that the bail granted to the Petitioner is subject to the condition that learned court below shall verify whether the Petitioner has any criminal antecedents of similar nature. In the event it is found that the Petitioner has any criminal antecedents of similar nature, this bail order shall automatically stand revoked.

11. The Bail Application is accordingly disposed of.

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

Jagabandhu

