

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8692 of 2022

Mohammad Sahid

....

Petitioner

Mr. A.N. Pattanayak, 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 Papadahandi P.S. Case No.02 of 2021 corresponding to T.R. Case No.03 of 2021, pending in the court of the learned Sessions Judge-cum-Special Judge, Nabarangpur, registered for the alleged commission of offence under Section 20(b)(ii)(C) of the NDPS Act, has filed this petition for his release on bail.
5. The allegation of the prosecution is that the police proceeded to Bandaguda Ghati receiving information regarding alleged transportation of ganja in a vehicle. It was alleged that the police detected the vehicle moving towards Baranasi(UP) and detained the

said vehicle and found five jari bags kept in the dala of the said van. The police seized 70 Kg. 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 04.01.2021.

7. Leaned Additional Standing Counsel for the State vehemently opposes the prayer for bail of the Petitioner and submits that number of such cases are increasing day-by-day and no leniency should be shown to the Petitioner or similarly situated persons and that the petitioner belongs to the State of U.P.

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 subject to following conditions that :-

- I. The Petitioner shall not be involved in any offence of similar nature;
- II. he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever;
- III. he shall not make any default in attending the court during trial;
- IV. he shall appear before the concerned Police Station once in a month preferably on ‘Sunday’ in between 10.00 A.M. to 1.00 P.M. till conclusion of trial; and
- V. he shall not leave the jurisdiction of the Court in seisin over the matter and shall furnish his address and mobile number to the police from time to time.

Violation of any of the terms and conditions shall entail

cancellation of bail.

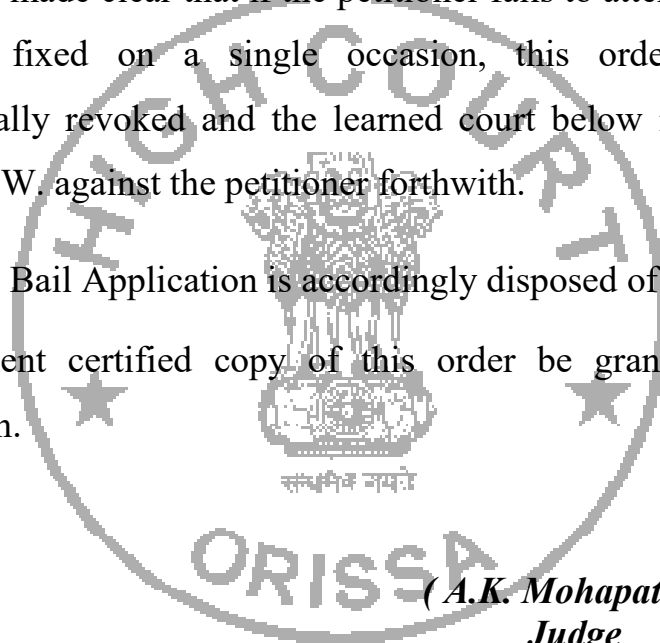
10. It is open for the court in seisin over the matter to impose any other conditions as may be deemed just and proper.

11. 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, this bail order shall automatically stand revoked.

12. It is made clear that if the petitioner fails to attend the court on the date fixed on a single occasion, this order shall stand automatically revoked and the learned court below is at liberty to issue N.B.W. against the petitioner forthwith.

13. The Bail Application is accordingly disposed of.

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



(*A.K. Mohapatra*)
Judge