

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7920 of 2020

Rama Chowdhury

....

Petitioner

Mr.A.K.Jena, Advocate

-versus-

State of Odisha

.... ***Opposite Party***

Mr.K.K.Gaya,ASC

CORAM:

JUSTICE S.K. PANIGRAHI

Order

No.

05.

ORDER

12.01.2022

1. This matter is taken up by hybrid mode.
2. Heard, learned counsel for the petitioner and learned counsel for the State.
3. The petitioner being in custody Excise Station Mathili P.R. Case No. 43 of 20-21 corresponding to T.R. Case No.128 of 2020 pending in the Court of learned Sessions Judge-cum-Special Judge, Malkanagiri, for commission of offence under Sections 20(b)(ii)(C) of the NDPS Act has filed this application under Section 439 of the Cr.P.C. for his release on bail.
4. The prosecution case in brief is that on 15.10.2020 while the informant along with his other Excise staffs were performing patrolling duty, they received reliable information from a person and found that the petitioner was waiting for a bus at Mundaguda village Chowk possessing a white colour packet containing contraband 'ganja'. They reached the spot and detained the person and recovered 21 Kgs. 500 grams of 'ganja' from him.
5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case. Since there was poor transportation facilities in those areas, the petitioner was waiting

for a bus to reach at his destination. Further nothing was found from his conscious possession. Moreover, the petitioner has been languishing in custody since 15.10.2020 which is more than one year.

6. The Petitioner has already spent in custody for about more than one year without trial being 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 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 organised society and so, 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.

7. Learned counsel for the State though vehemently opposes the prayer for bail of the petitioner on the ground commercial quantity but concedes the detention of the petitioner for more than one year.

¹ (1980) 1 SCC 81

8. Considering the submissions made, facts and circumstances of the case as well as period of detention of the petitioner in custody without trial, it is directed that the petitioner be released on bail in the aforesaid case with some stringent terms and conditions as deemed just and proper by the learned court in seisin over the matter with further conditions that:-

- i. the petitioner shall appear before the learned trial court on each date of posting of the case;
- ii. he shall not indulge himself in any criminal offence while on bail and
- iii he shall not tamper with the prosecution evidence in any manner.

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

10. The BLAPL is accordingly disposed of

11. As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide Court's Office Order dated 7th January, 2022.

(S.K.Panigrahi)
Judge