

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.8387 of 2021

Alok Nayak

.... *Petitioner*

Mr. L.N. Patel, Adv.

along with

Mr. Bijaya Kumar Ragada, Adv.

-versus-

State of Odisha

.... *Opposite Party*

Mr. Anand Das, ASC

CORAM:

MR. JUSTICE S.K. PANIGRAHI

ORDER

07.03.2022

Order No.

02.

1. This matter is taken up through hybrid arrangement.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner being in custody in connection with C.T. Case No.45 of 2020 arising out of Phiringia P.S. Case No.73 of 2020 pending in the court of the learned Sessions Judge-cum-Special Judge, Kandhamal, Phulbani, registered for the alleged commission of offence under Sections 20(b)(ii)(C)/ 25/ 29 of the NDPS Act, has filed this application under Section 439 of Cr.P.C. for his release on bail.
4. The brief fact of the case is that on 03.09.2020 at 4.30 A.M. on getting information from a reliable source that four persons including the driver are in possession of huge quantity of ganja and transporting the same in an Indigo Car bearing Registration No.OR-02BT-1726 through escorting Motorcycle bearing Registration No.OD 25-H-8582, as per the direction of the I.I.C., Phiringia Police Station, the informant being the Sub-Inspector of Police of Phiringia Police Station organized a raid to the spot. When they were passing through Penagiri Chhak, Phiringia on

Dimirigu- Sadingia road, they were caught red handed. The Motorcycle rider escaped from the spot leaving his Motorcycle and the four persons including driver of the said vehicle were detained. On being searched of the said vehicle, two bags containing 25 Kgs. of ganja each were recovered in their presence. After observing all formalities, they seized the same and forwarded the accused persons after arrest.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. He further submits that the petitioner is in custody since 03.09.2020. he is languishing in custody for more than one and half year without trial being commenced and there is a bleak chance of completion of trial in near future. He further submits that co-accused persons have been released on bail by this Court vide order dated 06.11.2021 passed in BLAPL No.7968 of 2021 and order dated 23.12.2021 passed in BLAPL No.10344 of 2021. Hence, the petitioner may be enlarged on bail.

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

7. The petitioner has already spent in custody for more than one and half year. 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 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

¹ (1980) 1 SCC 81

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 of the essence of an organised 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.

8. Considering the facts and submissions made and on going through the materials available on record, further keeping in view the surrounding circumstances including the period of detention of the petitioner in custody and the fact that the co-accused persons have been released on bail in the meantime, it is directed that the petitioner be released on bail in the aforesaid case by the court in *seisin* over the matter on such terms and conditions as deemed just and proper subject to the 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 in similar activities in future; and
- iii. he shall not tamper with the evidence of the prosecution witnesses in any manner.

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

10. Accordingly, the BLAPL is disposed of.

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

(S.K. Panigrahi)
Judge