

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No.8072 of 2020**

***Pratap Behera***

....

***Petitioner***

Mr. Amulya Ratna Panda, Adv.

*-versus-*

***State of Odisha***

....

***Opp. Party***

Mr. K. Gaya, ASC

**CORAM:**

**JUSTICE S.K. PANIGRAHI**

**ORDER**

**07.01.2022**

**Order No.**

**05.**

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. The petitioner being in custody in connection with Phiringia P.S. Case No.73 of 2020 corresponding to C.T. Case No.45 of 2020 pending in the court of learned District and Sessions Judge-cum-Special Judge, Phulbani for commission of offences under Sections 20(b)(ii)(C)/25 and 29 of the NDPS Act has filed this application under Section 439 of the Cr.P.C. for his release on bail.
4. The brief fact of the prosecution case is that on 03.09.2020 at 4.30 A.M. upon receiving information from a reliable source that four persons carrying a huge quantity of contraband articles and transporting the same via an Indigo Car bearing Registration No.OR-02BT-1726. The car was informed to be escorted by a Motor cycle 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 P.S. organized a raid on the informed spot. When they were passing through Penagiri chhak, Phiringia on Dimirigu-Sadingia road, they were caught red handed. The Motor cycle rider escaped leaving his Motorcycle and the four persons including the driver of the said vehicle were detained. On being searched, two bags containing 25 Kgs. of ganja each were recovered from their possession. 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. It is further submitted that the investigation of the case has been completed and charge sheet has already been filed. Trial of the case has not yet commenced. The petitioner has been languishing in custody since 04.09.2020. Two co-accused who are similarly situated with the petitioner, have already been released on bail by this Court vide in BLAPL Nos.7968 of 2021 and 10344 of 2021 .

6. Learned counsel for the State vehemently opposed the prayer for bail of the petitioner but concedes to the factum of release of similarly situated co-accused and the detention of the petitioner in custody for more than one year without commencement of trial despite the submission of charge sheet.

7. The Petitioner has already spent in custody for more than one 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***<sup>1</sup> 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 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 submissions made, facts and circumstances of the case as well as period of detention of the petitioner in custody, 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

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<sup>1</sup> (1980) 1 SCC 81

iii he shall not tamper the evidence of 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. Urgent certified copy of this order be granted on proper application.

**( S.K. Panigrahi )**  
**Judge**

*BJ*

