

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8894 of 2021

Dakum Kimbaka

....

Petitioner

Mr. S.K. Nayak, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. G.R. Mohapatra, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

29.04.2022

Order No.

01. 1. The 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 Gudari P.S. Case No.23 of 2021 corresponding to T.R. Case No.53 of 2021 pending in the court of learned Addl. Sessions Judge-cum-Special Judge, Gunupur for the commission of offence under Sections 20(b)(ii)(C) of the N.D.P.S. Act, has filed this petition for bail.
4. The prosecution case, as narrated in the FIR, is that on 7. 4 2021 while the informant and his staff were on patrolling duty, they found the petitioner at Grahibandha Chhaka. He was in possession of 2 plastic bags which he had hidden behind the buses. On seeing the police personnel, he tried to escape the spot, but was caught. On searching, 45.2 kgs of Ganja was recovered from the aforesaid two plastic bags.
5. Learned counsel for the petitioner submits that the petitioner is in custody since 07.04.2021 and he has no criminal antecedent. The petitioner has no knowledge about transportation of ganja in the

offending vehicle. He further submits that the petitioner undertakes to abide the terms and conditions imposed on him in case he is released on bail.

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

7. The petitioner has already spent in custody for about more than one and trial has not yet been commenced. 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 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.

8. Considering the aforesaid submissions, the facts of the case and the period of detention, the BLAPL is allowed.

¹ (1980) 1 SCC 81

9. Let the petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin over the matter with further conditions that:-

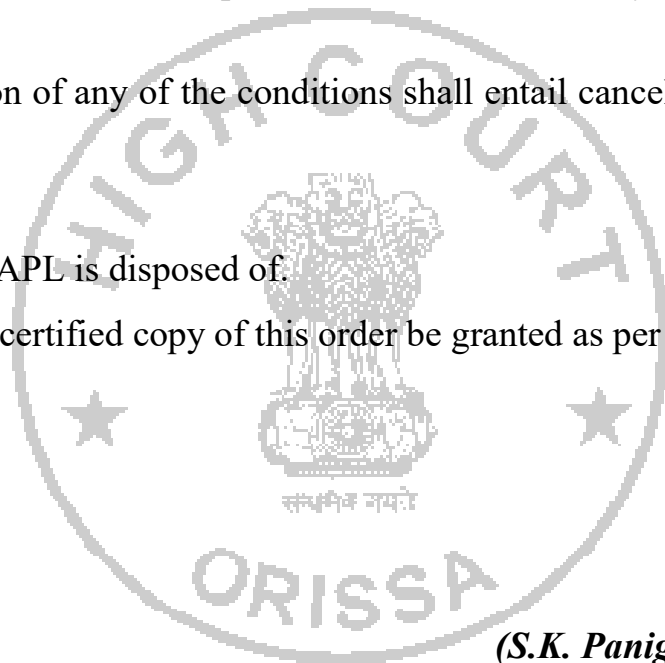
i. he shall appear before the trial court on each date of posting of the case;

ii. he shall not indulge in any kind of criminal activity during bail period and shall not tamper with the evidence of prosecution witnesses in any manner.

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

11. The BLAPL is disposed of.

Urgent certified copy of this order be granted as per rules.



(S.K. Panigrahi)
Judge

pcd