

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9049 of 2021

Allarakha Sk.

....

Petitioner

Mr. Smruti Ranjan Rout, Adv.

-versus-

State of Odisha

....

Opp. Party

Mr. M.K. Mohanty, ASC

CORAM:

JUSTICE S.K. PANIGRAHI

ORDER

06.01.2022

Order No.

01.

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 T.R. Case No.14/348 of 2020, corresponding to Khandagiri P.S. Case No.519 of 2020, pending in the court of the learned 2nd Additional Sessions Judge, Bhubaneswar for the alleged commission of offence under Section 20(b)(ii)(C) of the N.D.P.S. Act, has filed this Petition under Section 439 of the Cr.P.C. for his release on bail.
4. The case of the prosecution is that on 25.08.2020 the informant Sub-Inspector of Police, S.T.F, CID, CB, Odisha, Bhubaneswar got credible information that three persons belonging to West Bengal were transporting contraband ganja after procuring the same from Koraput district. Based on such information, at about 10.45 A.M., the informant along with his staff detained the Petitioner and two others at Baramunda bus

stand and on search, recovered and seized a gunny bag containing 20 Kgs. 200 grams of contraband ganja from their exclusive possession, besides mobile phones, cash etc. Thereafter, they were arrested and produced before the court.

5. Learned counsel for the Petitioner submits that the Petitioner has been falsely implicated in this case. He is in custody since 25.08.2020. He further submits that the Petitioner and other two persons were found in possession of the contraband articles weighing 20 Kgs. 200 grams. The Petitioner is languishing in custody without trial being commenced. The other two co-accused persons have already been granted bail by this Court. Hence, he submits that 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 about 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***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

¹ (1980) 1 SCC 81

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, 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

BJ