

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9060 of 2021

Gajanana Patel

....

Petitioner

Mr. S.K. Jena, Advocate

-versus-

State of Odisha

....

Opposite Party

Mrs. S. Pattanayak, AGA

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

30.03.2022

Order No.

04. 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 P.R. No.274/2020-21 dated 08.03.2021 of Excise E.I. & E.B. Unit-II, North Division, Sambalpur corresponding to C.T. (Spl.) Case No.8 of 2021 pending in the court of learned Special Judge, Bargarh for the commission of offence under Sections 20(b)(ii)(C) of the NDPS Act, has filed this petition for his release on bail.
4. The prosecution case, as narrated in the FIR, is that on 08.03.2021, at about 7.50 A.M., on getting information that the accused was ready to transport the contraband ganja, which was stored in his house, the informant along with his staff proceeded to his house and seized 22.150 k.gs. of contraband ganja from his possession.

5. Learned counsel for the petitioner submits that the petitioner has been in custody since 08.03.2021 and trial has not yet been commenced. He further submits that there is no direct allegation against the petitioner that he was in exclusive possession of the contraband ganja. So, the bail petition may be allowed.

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

7. The petitioner is in custody for more than one year and the trial has not yet been commenced and there is likely less chance 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 under trial 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 offence 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.

¹ (1980) 1 SCC 81

8. Considering the aforesaid facts and submissions, the BLAPL is allowed.

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

i. he shall appear before the court in seision over the matter on each date of posting of the case till completion of trial;

ii. he shall not indulge himself in any kind of criminal activity while on bail 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