

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8521 of 2020

Pramod Kumar Nayak @ Naik

.... ***Petitioner***
Mr. K.P. Dash, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. J. Katikia, AGA

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

Order No.

28.02.2022

08. 1. The matter is taken up through hybrid mode.
2. A memo is filed stating that the case has been registered as P.S. Case No.535 of 2020 instead of P.S. Case No.540 of 2020.
3. Heard learned counsel for the petitioner and learned counsel for the State.
4. The petitioner being an accused in Bhanjanagar P.S. Case No.535 of 2020 corresponding to Special G.R. Case No.32 of 2020 of the court of learned Special Judge, Bhanjanagar for the commission of offence under Section 20(b)(ii)(C) of the N.D.P.S. Act, has filed this application under Section 439 of the Cr.P.C. for his release on bail.
5. The prosecution case, as narrated in the FIR, is that on 12.10.2020 at 2.30 P.M., the informant along with his staff received information of four people approaching Durga Prasad from Kalinga Ghati on two motor cycles with two packets of contraband Ganja. The informant and his staff rushed to the spot and received two polythene packets

of Ganja from the said vehicles. The total quantity of Ganja seized was 41.49 kgs.

6. Learned counsel for the petitioner submits that the petitioner has been in custody since 14.10.2020, which is more than one year without the trial having commenced. There is no possibility of trial being commenced in near future. So, the petitioner may be granted bail.

7. Learned counsel for the State opposes the bail prayer of the petitioner.

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

¹ (1980) 1 SCC 81

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.

9. Keeping in view the aforesaid consideration, facts of the case, period of detention of the petitioner in judicial custody without the trial having commenced and the bleak chance of the completion of trial in the near future, the BLAPL is allowed.

10. 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. petitioner shall appear before the court on each date of posting of the case;
- ii. he shall not indulge in any kind of criminal activity during bail period; and
- iii. he shall not tamper with the evidence of prosecution witnesses in any manner and shall not terrorize the prosecution witnesses.

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

12. The BLAPL is disposed of.

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

(S.K. Panigrahi)
Judge

pcd