

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.9177 of 2021

Santosh Majhi

....

Petitioner

Mr. Nihar Ranjan Sahoo, Adv.

-versus-

State of Odisha

....

Opposite Party

Mr. G.R. Mohapatra, ASC

CORAM:

MR. JUSTICE S.K. PANIGRAHI

ORDER

02.05.2022

Order No.

- 03.
1. This matter is taken up through hybrid arrangement.
 2. Heard learned counsel for the petitioner and learned counsel for the State.
 3. The petitioner being in custody in Kalimela P.S. Case No.96 of 2020 corresponding to T.R. Case No.74 of 2020 pending in the court of learned Sessions Judge-cum-Special Judge, Malkangiri for the commission of offence under Section 20(b)(ii)(C) of the N.D.P.S. Act, has filed this petition for bail.
 4. The prosecution case in brief is that on 05.08.2020, while the S.I of Kalimela police station was on patrolling duty, he saw 2 Autorickshaws along with two bikes approaching. The vehicles were detained, however, the occupants of the 2nd autorickshaw and one on the bike managed to abscond. The accused were found to be in possession of 525kgs of ganja. The said amount of ganja was recovered and seized.
 5. Learned counsel for the petitioner submits that the petitioner is in custody since 05.08.2020 and he has been falsely implicated in the present case. He further submits that the petitioner was alleged to have been escorting two Autos where

contraband articles were loaded. When the police signaled them to stop, out of fear, the petitioner fled from the spot, lifting behind his motorcycle. The petitioner has unnecessarily been entangled in this case. Since nothing was found from the conscious possession of the petitioner and is a young boy of 31 years, he 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 and half years 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 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.

¹ (1980) 1 SCC 81

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

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

- i. the petitioner shall appear before the trial court on each date of posting of 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. Accordingly, the BLAPL is disposed of.

12. Urgent certified copy of this order be granted on proper application.

(*S.K. Panigrahi*)
Judge

BJ