

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO. 9344 of 2021

***Pramod Kumar Behera @
Pramod Behera***

Petitioner
Mr.A.R.Panda,
Advocate

-versus-

Enforcement Directorate....Opposite Party

Mr.M.K.Mohanty, ASC

**CORAM:
JUSTICE S.K. PANIGRAHI**

**Order
No.**

**ORDER
10.01.2022**

02. 1. This matter is taken up by virtual mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner being in custody in C.T. Case No. 104 of 2021 arising out of Balliguda P.S. Case No. 127 of 2019 pending in the court of learned Additional Sessions Judge-cum-Special Judge, Balliguda for commission of offence under Section 20(b)(ii)(c) of N.D.P.S. Act has filed this application under Section 439 of the Cr.P.C. for his release on bail.
4. The prosecution case in brief, is that on 02.10.2019 at about 4.30 A.M. , on receipt of credible information about transportation of contraband ganja through a Maruti Suzuki Desire Car by some persons, they proceeded to the spot and detected them present including the petitioner in a Maruti Suzuki Desire Car bearing registration No OD 27A-3534. The Police personnel detained the petitioner along with other co-accused and on search, recovered and seized 64 Kgs 400 grams of 'ganja' from the dickey of the car

without bag. Thereafter, all the accused persons including the petitioner were arrested and forwarded to the Court.

5. Learned counsel for the petitioner submits that since there was poor transportation facilities, the petitioner was waiting for a vehicle and boarded in the alleged car to reach at his destination. Meanwhile, the Police personnel caught him suspecting to have possessed the contraband articles. Moreover, the petitioner has been languishing in custody for more than one year without the trial being commenced and nothing has been seized from his conscious possession. The petitioner is in custody since 02.10.2019.

6. 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 under trial prisoner and his suffering 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 the essence of an organised society and so, cases should be decided as

¹ (1980) 1 SCC 81

early as possible. The present case fails to confirm to the aforesaid stand as articulated by the Hon'ble Supreme Court.

7. Learned counsel for the State though vehemently opposes the prayer for bail of the petitioner on the ground of commercial quantity but conceded the submission regarding detention of the petitioner in custody for more than one year.

8. Considering the submissions made, facts and circumstances of the case as well as period of detention of the petitioner in custody, it is directed that the petitioner be released on bail in the aforesaid case with some stringent terms and conditions as deemed just and proper by the learned court in seisin over the matter with further 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 himself in any criminal offence while on bail and
- iii he shall not tamper the evidence of the prosecution evidence in any manner.

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

10. The BLAPL is accordingly disposed of.

11. As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified

copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide Court's Office Order dated 7th January, 2022.

(S.K.Panigrahi)
Judge

LB

