

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10272 of 2021

Ajay Kumar Pal

....

Petitioner

Mr. A.N. Pattanayak, Advocate
-versus-

State of Odisha

....

Opposite Party

Mr. G.R. Mohapatra, ASC

CORAM:JUSTICE S.K. PANIGRAHI

ORDER

11.03.2022

Order No.

07. 1. The matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is in judicial custody in connection with Papadahandi P.S. Case No.122 of 2020 corresponding to T.R. Case No.23 of 2020 of the court of learned Special Judge, Nabarangpur for the offence under Section 20(b)(ii)(C) of the NDPS Act and has filed this petition for bail.
4. The allegation of the prosecution is that the contraband Ganja weighing 116.950 Kg. has been seized from the dicky of the offending vehicle which is in possession of the petitioner.
5. Learned counsel for the petitioner submits that the petitioner is in judicial custody since 09.09.2020 and trial has not yet commenced. The charge-sheet has been filed. Learned counsel for

the petitioner further submits that the petitioner undertakes to cooperate with the trial if he is released on bail. It is further submitted that the co-accused has been granted bail by this Court vide order dated 06.11.2021 in BLAPL No.1107 of 2021.

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

7. The petitioner has already spent in custody for about more than 1 and ½ years and trial has not yet 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 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 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. Keeping in view the aforesaid facts and submissions and the period of detention of the petitioner in judicial custody without trial having commenced, the BLAPL is allowed.

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

i. he shall appear before the trial court on each date of posting of the 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. The BLAPL is disposed of.

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

(S.K. Panigrahi)
Judge

pcd