

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO. 9511 of 2020

Babu @ Prasanna Routray

Petitioner

Mr.Manoranjan Padhy,
Advocate

-versus-

State of Odisha

....***Opposite Party***

Mr.M.K.Mohanty, ASC

CORAM:

JUSTICE S.K. PANIGRAHI

Order
No.

ORDER
07.1.2022

05. 1. This matter is taken up by hybrid mode.
2. Heard, learned counsel for the petitioner and learned counsel for the State.
3. The petitioner being in custody in T.R. Case No. 397 of 2020 arising out of Laxmisagar P.S. Case No. 268 of 2020 pending in the court of learned District & Sessions Judge, Khordha at Bhubaneswar 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 13.10.2020 in the morning hour, on receipt of credible information that two persons were trying to sell contraband 'Ganja' at Jharpada Melana Padia, the informant-S.I. of Laxmisagar P.S. and his staff proceeded to the spot and detected them present in a Maruti 800 car bearing registration No OR 02 AE 3601. The Police personnel detained the petitioner along with other co-accused and on search, recovered and seized one jari bag containing 30 Kgs 100 grams of 'ganja' from their exclusive possession. 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 Maruti 800 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 13.10.2020.

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 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 the essence of an organised society and so, 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.

7. Learned counsel for the State though vehemently opposes the prayer for bail of the petitioner on the ground of commercial

¹ (1980) 1 SCC 81

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. Issue urgent certified copy as per Rules.

(S.K.Panigrahi)
Judge