

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.10601 of 2021

Satyabrata Acharya

....

Petitioner

Mr. Smruti Ranjan Mohapatra, Adv.

-versus-

State of Odisha

....

Opposite Party

Mr. G.R. Mohapatra, ASC

CORAM:

MR. JUSTICE S.K. PANIGRAHI

ORDER

02.05.2022

Order No.

01. 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 is in custody in connection with Kisinda P.S. Case No.47 of 2020 corresponding to T.R. Case No. 17/46 of 2020-21 pending before the court of the learned Sessions Judge-cum-Judge (Special Court), Raairakhola registered for the alleged commission of offences under Sections-20(b)(ii)C/ 25 of the NDPS Act, has filed this application under Section 439 of CrPC for his release on bail.
4. The brief facts of the prosecution case are that on 04.09.2020 at about 8:30 A.M. while the informant along with his staff were performing patrolling and MV checking duty, they found a white colour Maruti Suzuki Dzire approaching from NAKTIDEULA. On seeing the police the car tried fleeing the spot, but were later apprehended. On searching, contraband ganja to the tune of 52kgs was recovered from the possession of the car occupants. There after the ganja was seized and the petitioner was forwarded to the learned court below.

5. Learned Counsel for the petitioner submits that the prosecution allegations leveled against the present petitioner are false and baseless. Moreover, the petitioner was not conscious of the possession of the contraband article. Furthermore, the mandatory provisions of the NDPS act has not been complied by the investigating officer. He further submits that the petitioner is in custody since 05.09.2020 for more than one and half year. He further submits that the petitioner undertakes to abide the terms and conditions to be imposed on him in case he is released 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

¹ (1980) 1 SCC 81

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.

8. Considering the facts and submissions made and on going through the materials available on record, further keeping in view the surrounding circumstances including the period of detention of the petitioner in custody, it is directed that the petitioner be released on bail in the aforesaid case by the court in *seisin* over the matter on such terms and conditions as deemed just and proper subject to the 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.

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

10. Accordingly, the BLAPL is disposed of.

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

(S.K. Panigrahi)
Judge

BJ