

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10722 of 2021

Narayan Jena

....

Petitioner

Mr. A. Tripathy, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Das, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

07.03.2022

Order No.

02. 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 being in custody in 2(a) C.C. No.04 of 2019-N, arising out of P.R. No.129/2018-2019, of the court of learned 1st Addl. Sessions Judge-cum-Special Judge, Berhampur for the alleged commission of offence under Section 20(b)(ii)(C) of the NDPS Act, has filed this petition for his release on bail.
4. The prosecution case in brief is that on 27.01.2019 at about 10.15 a.m. while the Inspector of Excise along with his staff was on patrolling duty, he noticed a car approaching. The said car was emitting the smell of Ganja. On apprehension, 5 persons were found occupying the car, carrying 94 kilograms of Ganja.
5. The learned counsel for the petitioner submits that the petitioner has been in custody since 27.01.2019 and the trial has not completed. He further submits that the petitioner will cooperate with the trial and appear before the court on each date of posting the case, if he is released on bail.

6. Learned counsel for the State opposes the bail prayer of the petitioner.

7. The petitioner is in custody for more than two years and the trial has not completed. 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 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 offence 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.

8. Considering the aforesaid facts and submissions, the BLAPL is allowed.

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

¹ (1980) 1 SCC 81

i. he shall appear before the court in seision over the matter on each date of posting of the case till completion of trial;

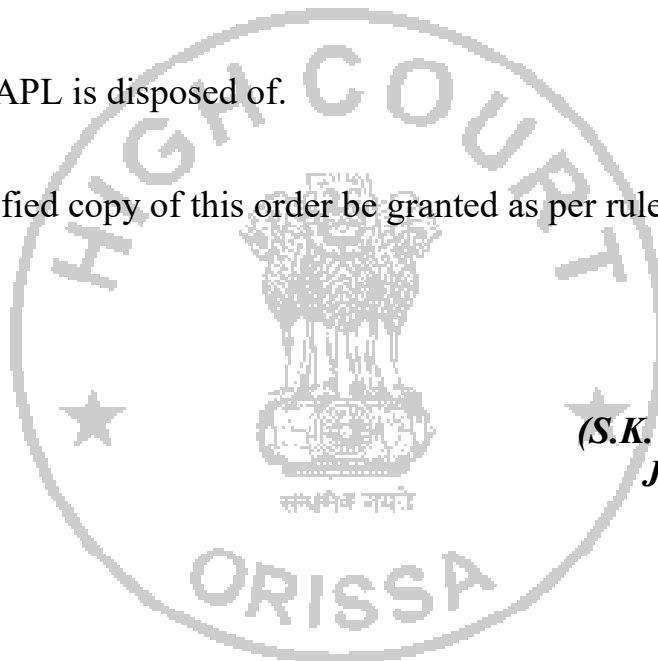
ii. he shall not indulge himself in any kind of criminal activity while on bail and shall not tamper with the evidence of prosecution witnesses in any manner.

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.

pcd



(S.K. Panigrahi)
Judge