

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL NO. 10797 OF 2021

Arun Kumar Swain

....

Petitioner

Mr.Jyotirmaya Sahoo, Adv.

-versus-

State of Odisha

....

Opposite Party

Mr.G.R.Mohapatra,ASC

CORAM:

MR. JUSTICE S.K. PANIGRAHI

ORDER

05.05.2022

Order No.

02.

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 is in custody in connection with 2(a)C.C. No.08 of 2020(N) arising out of P.R. No.99 dated 28.09.2020 pending in the court of the learned Sessions Judge-cum-Special Judge, Ganjam, Berhampur for the alleged commission of offence under Section 20(b)(ii)(C) of the NDPS Act.

4. The prosecution case, in brief, is that on 28.09.2020 while the officials of Excise Police were performing patrolling duties near 1st gate at about 8.20 A.M., they noticed a Tata 407 Truck bearing Regd. No. OR-07E-0379 coming from 1st gate side towards Bhubaneswar. The Excise staffs detained the Truck near Bharat Petrol Pump, NH-59. There was Ganja smell impending from the Mini Truck. On suspicion the IIC detained

the truck and found four jerry bags kept inside the dalla. Thereafter, the I.I.C. seized those four bags containing Ganja weighing 106 Kgs of 'Ganja' and registered the case against the petitioner and arrested him on 28.09.2020.

5. Learned Counsel for the petitioner submits that the prosecution allegations leveled against the petitioner are false, baseless and concocted. He was only occupant in the vehicle. He has no role in transporting the 'Ganja'. He has been languishing in custody since 28.09.2020. Moreover, he is ready and will to abide by any terms and conditions in the event of his release on bail.

6. Learned counsel for the State though vehemently opposed the bail.

7. The petitioner has already spent in custody for about more than 1 and ½ year and trial has not yet been commenced. There is less likelihood of completion of trial in the near future. 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*'.

¹ (1980) 1 SCC 81

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 made as well as detention of the petitioner in custody without delay, it is directed that the Petitioner be released on bail in the aforesaid case by the Court in *seisin* of the matter on such terms and conditions as deemed just and proper subject to 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 in similar activities in future;
- and
- iii. he shall not tamper with the evidence of the prosecution witnesses in any manner.

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

9. Accordingly, the BLAPL is disposed of

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

(S.K. Panigrahi)
Judge