

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL NO. 10970 OF 2021

<i>Rajesh Tayade</i>		<i>Petitioner</i> <i>Mr.Manoranjan Padhy, Adv.</i>
	-versus-	
<i>State of Odisha</i>		<i>Opposite Party</i> <i>Mr.G.R.Mohapatra,ASC</i>

CORAM:
MR. JUSTICE S.K. PANIGRAHI

ORDER
11.05.2022

Order No.

01. 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 judicial custody in connection with Nandapur P.S. Case No.30 of 2019, corresponding to T.R.Case No.11 of 2019, pending in the court of learned Additional Sessions Judge-cum-Special Judge, Koraput for the alleged commission of offence under Sections 20(b)(ii)(C)/25/29 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 brief fact of the case is that while the police personnel were on patrolling duty, they caught hold of a truck bearing registration number MH 19Z 3324. The four occupants of the truck were detained and recovered fourteen number of gunny bags packed with contraband Ganja totaling to 321 Kgs. The

said truck was piloted by a car bearing registration number AP 35B 6693. The occupants of the said car were detained as well.

5. Learned counsel for the petitioner submits that the petitioner was no way connected with the smuggling of 'Ganja'. On the basis of the confessional statement of one of the co-accused he has been implicated in the case. The petitioner being driver, he had no knowledge about the loading of Ganja. However, he was arrayed as an accused besides others. He is ready and willing to abide by any terms and conditions in the event of his release on bail. Some of the co-accused who are similarly situated with the petitioner, have been enlarged on bail by orders of this Court in BLAPL No. 10626 of 2019 and BLAPL No. 10860 of 2021. He has been languishing in custody since 08.06.2019.

6. Learned counsel for the State though vehemently opposed the bail with the submission that the petitioner being the outsider there would be difficult in procurement of his attendance.

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*’. 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 submissions made as well as detention of the petitioner in custody without trial and release of co-accused, it is directed that the Petitioner be released on furnishing a bail bond of Rs.2,00,000/-(Rupees two lakhs only) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin of the matter with some stringent terms and conditions as deemed just and proper in the aforesaid case 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 in similar activities in future; and

¹ (1980) 1 SCC 81

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. Issue urgent certified copy of the order as per Rules.



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