

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No. 11153 of 2021**

**Nityananda Kanhar @ Rahul** .... **Petitioner**

Mr. S.K. Baral, Advocate

**-Versus -**

**State of Odisha** .... **Opposite Parties**

Mr. S.K. Mishra,  
Addl. Standing Counsel

**CORAM:**

**JUSTICE SASHIKANTA MISHRA**

**ORDER**

**28.07.2022**

**Order No.**  
**03.**

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned Addl. Standing Counsel for the State.
3. The petitioner is in custody since 28.03.2018 in connection with Phulbani Town P.S. Case No.46 of 2018 corresponding to C.T. Case No.16 of 2018 pending in the Court of learned Sessions Judge-cum-Special Judge, Kandhamal, Phulbani for the alleged commission of offence under Sections 20(b)(ii)(C) of NDPS Act.
4. It is alleged that the petitioner was driving a car, which was detained by the staff of Phulbani Police Station. On search, contraband ganja weighing 99 Kg 700 Grams was recovered. It is submitted that the petitioner being a driver had no knowledge about the contents of the articles kept in the dickey of the vehicle. It is further submitted that the petitioner has been in custody for more than four and half years without commencement of trial.
5. Learned Addl. Standing Counsel has opposed the prayer for bail by submitting that having regard to the bar under Section 37 of the NDPS Act, the petitioner's prayer should not be considered.

6. While it is true that the quantity of contraband seized is more than commercial quantity being 99 Kg 700 Grams of ganja yet fact also remains that right to speedy trial is akin to fundamental right and included within the ambit of Article 21 of the Constitution of India. The Apex Court in several cases beginning from *Hussainara Khatoon v. Home Secretary*, reported in *AIR 1979 SC 1377* and *Abdul Rehman Antulay v. R.S. Nayak* reported in *(1992) 1 SCC 225* has time and again emphasized the above fact and even recently, in the case of *Satender Kumar Antil v. CBI*, reported in **2022 SCC OnLine SC 825**.

7. Taking into consideration the fact that the petitioner's liberty has been curtailed for a long period this Court is of the considered view that this is a fit case for exercise of judicial discretion in favour of the petitioner. Let the petitioner be released on bail on such terms and conditions as the court in seisin over the matter may deem fit and proper to impose including the condition that he shall personally appear before the trial Court on each date of posting of the case without fail.

8. BLAPL is accordingly disposed of.

9. Issue urgent certified copy as per rules.

**(Sashikanta Mishra)**  
**Judge**

*A.K. Rana*