

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO. 11439 of 2021

Binod Digal & another

....

Petitioners

Mr. B.R.Mohanty Adv.

-versus-

State of Odisha

....Opposite Party

Mr.G.Mohapatra, SC

CORAM:

JUSTICE S.K. PANIGRAHI

Order

No.

ORDER

12.04.2022

- 02.
1. This matter is taken up by virtual mode.
 2. Heard learned counsel for the petitioners and learned counsel for the State.
 3. The petitioners being in custody in T.R. Case No. 256 of 2020 arising out of Khandagiri P.S. Case No. 375 of 2020 pending in the court of learned Sessions Judge, Khurda, Bhubaneswar for commission of offence under Section 20(b)(ii)(C) of N.D.P.S. Act have filed this application under Section 439 of the Cr.P.C. for their release on bail.
 4. It is alleged in the F.I.R. that while the petitioners were standing at Kalinga Nagar, K-2 Chhak for selling contraband 'Ganja' kept weighing about 80 kgs. in four bags, getting such information, the informant along with his other staff proceeded to the spot, recovered and seized four jari basta from the conscious possession of the petitioners, arrested them for selling such contraband articles without licence which is more than commercial quantity.

5. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in this case. They are permanent residents of their given addresses. They shall abide by any terms and conditions if they are released on bail. They have been languishing in custody since 02.07.2020 without being trial.

6. The Petitioners have already spent in custody for about more than one year. The Hon'ble Apex Court, time and again, has expressed displeasure on the delay of trial of the under trial prisoner and his suffering 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 the essence of an organised society and so, 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.

7. Learned counsel for the State though vehemently opposes the prayer for bail of the petitioners on the ground of commercial quantity but conceded the submission regarding detention of the petitioners in custody for more than one and half year without trial.

¹ (1980) 1 SCC 81

8. Considering the submissions made, facts and circumstances of the case as well as period of detention of the petitioners in custody without trial, it is directed that the petitioners be released on bail in the aforesaid case with some stringent terms and conditions as deemed just and proper by the learned court in seisin over the matter with further conditions that:-

- i. the petitioners shall appear before the learned trial court on each date of posting of the case;
- ii. they shall not indulge themselves in any criminal offence while on bail and
- iii they shall not tamper the evidence of the prosecution evidence in any manner.

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

10. The BLAPL is accordingly disposed of.

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

(S.K.Panigrahi)
Judge