

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11590 of 2021

Badana Hantal @ Raja

....

Petitioner

Mr. A.N. Pattanayak, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. G.R. Mohapatra, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

06.04.2022

Order No.

01. 1. This 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 Semilliguda P.S. Case No.135 of 2019 corresponding to T.R. Case No.51 of 2019 pending in the court of learned Special Judge, Koraput for the commission of offence under Section 20 (b)(ii)(C) of the NDPS Act, has filed this petition for bail.
4. It is alleged in the FIR on 30.12.2019, at about 12.15 P.M., while S.I. of police and his staff were performing patrolling duty on Semiliguda-Pottangi road found one white colour Sabari proceeding towards Doliamba in speed. They chased the said vehicle and stopped the same at Kokriguda chhaka. On verification of the vehicle, they found four nos. of jerry bags containing ganja and seized 93 kg 305 gram of ganja from the possession of the accused persons.

5. Learned counsel for the petitioner submits that the petitioner is an innocent person as he was merely a driver, who was carrying out the instructions given by the owner of the vehicle. He has been charge-sheeted for the offence as aforesaid. The petitioner was caught by the police when driving the vehicle. The petitioner is in custody since 30.12.2019 without trial being commenced. So, the petitioner deserves to be released on bail.

6. Learned counsel for the State opposes the bail prayer of the petitioner on the ground that the quantity of ganja seized is more than the commercial quantity.

7. The petitioner has already spent more than two years three months in custody without trial being commenced and 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 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

¹ (1980) 1 SCC 81

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:

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.

(S.K. Panigrahi)
Judge

pcd

