

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11659 of 2021

Dhanjee @ Dhanji Ray

.... ***Petitioner***

Mr. P. Beura, Advocate

-versus-

State of Odisha

.... ***Opposite Party***

Mr. G.N. Mohapatra, ASC

CORAM: JUSTICE S.K. PANIGRAHI

ORDER

19.05.2022

Order No.

02. 1. The 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 connection with Kakiriguma (Koraput) PS Case No. 57 of 2020 corresponding to TR Case No. 34 of 2020, pending in the court of the learned Additional Sessions Judge-cum-Special Judge, Koraput, registered for the alleged commission of offence under Sections 20(b)(ii)(C), 25 & 29 of the NDPS Act, has filed this petition for his release on bail.
4. The allegation of the prosecution is that on 24.06.2020, at about 11 A.M., the police proceeded to Goudaguda receiving an information regarding alleged transportation of ganja in a Bolero Van. It was alleged that about 12.30 P.M., the police detected the Bolero moving towards Gudaguda and detained the said vehicle and found five jari bags kept in the dala of the said van. The police seized 148.80 K.G. of ganja from the accused persons.

5. Learner counsel for the petitioner submits that the petitioner is the driver of the offending vehicle and he was carrying out the instructions of the owner. He has no knowledge about the transportation of the ganja in the said vehicle. Though the investigation in the case is already over and charge-sheet has already been filed, the trial is yet to commence in the present case. The petitioner is in custody since 24.06.2020.

6. Learned counsel for the State opposes the bail prayer of the petitioner.

7. The petitioner has already spent in custody for about more than 1 and ½ years and trial has not yet been 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 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

¹ (1980) 1 SCC 81

case fails to confirm to the aforesaid stand as articulated by the Hon'ble Apex Court.

8. Considering the aforesaid submissions, facts of the case and the period of detention, the BLAPL is allowed.

9. Let the petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin over the matter with further conditions that:-

i. he shall appear before the trial court on each date of posting of the case;

ii. he shall not indulge in any kind of criminal activity during bail period 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