IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 11993 of 2024

Pintu Roy ..... ***Petitioner***

Mr. Jugalkishore Panda, Adv.

-Versus-

State of Odisha ..... ***Opposite Party***

Ms. Gayatri Patra, ASC

CORAM:
DR. JUSTICE S.K. PANIGRAHI

ORDER
05.12.2024

Order No.

01.

P.R No.	Dated	Police Station	Case No. and Courts' Name	Sections
83	13.07.2022	Chitrakonda	Special G.R. Case No.110 of 2022 pending in the court of learned Sessions Judge-cum-Special Judge, Malkangiri	Section 20(b)(ii)(c)/ 25/ 27-A of N.D.P.S. Act..

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1. This matter is taken up through hybrid arrangement.

2. Heard learned counsel for the Parties.

3. The Petitioner being in custody in Chitrakonda P.S. Case No.83 of 2022 corresponding to Special G.R. Case No.110 of 2022, pending in the court of the learned Sessions Judge-cum-Special Judge, Malkangiri, registered for the alleged commission of offences under Sections 20(b)(ii)(c)/ 25/ 27-A of N.D.P.S. Act has filed this petition for his release on bail.

4. The prosecution case is that on 13.07.2022 at about 9.00 am., while the informant along with his staff were performing day patrolling at Rajulkonda, RSC-16 nearby village area, they noticed one brown color Eicher Truck covered with black colour tarpaulin on back side dala was proceeding towards Rajulkonda side in high speed. On suspicion, they tried to follow the vehicle by showing hand signal. But, the driver did not stop the vehicle and tried to escape from the spot. They managed to stop the vehicle at 9.55 AM. On being interrogation, the driver disclosed his name and address. After verification of the said vehicle, they found 613 kg 750 grams contraband ganja.

5. Learned counsel for the Petitioner submits that the Petitioner had no knowledge regarding transportation of contraband 'ganja'. He has been falsely implicated in this case and the Petitioner is no way connected with the offences as alleged by

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the prosecution in any manner. Moreover, the Petitioner is in custody since 14.07.2022. Hence, he submits that the Petitioner may be enlarged on bail.

6. Learned counsel for the Petitioner submits that the Hon'ble Supreme Court has held that right to have speedy trial is a fundamental right of a citizen. Hence, keeping a person in custody for such a long time without any trial is not justified and violative of his fundamental right. The importance of speedy trial has been emphasized in the case of **Hussainara Khatoon & Ors. vs Home Secretary, State of Bihar**, wherein the Hon'ble Supreme Court has iterated that:

> *"Speedy trial is, as held by us in our earlier judgment dated 26th February, 1979, an essential ingredient of 'reasonable, fair and just" procedure guaranteed by Article 21 and it is the constitutional obligation of the State to device such a procedure as would ensure speedy trial to the accused. The State cannot be permitted to deny the constitutional right of speedy trial to the accused on the ground that the State has no adequate financial resources to incur the necessary expenditure needed for improving the administrative and judicial apparatus with a view to ensuring speedy trial."*

7. He further argues that the period of long incarceration suffered, which entitle the Petitioner for grant of bail. Right to Speedy trial is a fundamental right of an under trial prisoner and [illegible] observations have been resonated, time and again, in several judgments including that of **Kadra Pahadiya & Ors. v.**

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State of Bihar [1]wherein it has been held that the obligation of the State or the complainant, as the case may be, to proceed with the case with reasonable promptitude. Particularly, in a country like ours, where the large majority of the accused come from poorer and weaker sections of the society and are not versed with laws and after face the dearth of competent legal advice. Of course, in a given case, if an accused demands speedy trial and yet he is not given one, may be a relevant factor in his favour. But an accused cannot be disentitled from complaining of infringement of his right to speedy trial on the ground that he did not ask for or insist upon a speedy trial.

8. The Supreme Court has also held in **Mohd. Muslim @ Hussain v. State (NCT of Delhi)**[2] that incarceration has further deleterious effects where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials -

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[1] (1981) 3 SCC 671

[2] 2024 (10) TMI

especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.

9. Learned counsel for the State vehemently opposes the prayer for bail of the Petitioner.

10. Without going into the merit of the case and based on the facts and circumstances of the case as well as the period of detention of the Petitioner in custody, it is directed that the Petitioner 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 Petitioner shall furnish P.R. bond of Rs.50,000/- (rupees fifty thousand) with two local sureties.

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

ii. he shall not indulge himself in any criminal offence while on bail; and

iii he shall not tamper the evidence of the prosecution evidence in any manner.

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

12. Accordingly, the BLAPL is disposed of.

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13. Urgent certified copy of this order be granted on proper application.

(Dr. S.K. Panigrahi)
Judge

Murmu

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