



IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 1503 of 2026

(In the matter of application under Section 483 of BNSS, 2023).

***Adikanda Swain and
another*** ... ***Petitioners***

-versus-

State of Orissa ... ***Opposite Party***

For Petitioners : ***Mr. K.P. Dash, Advocate***

For Opposite Party : ***Mr. C. Mahanty, Addl. PP***

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:27.04.2026(ORAL)

G. Satapathy, J.

1. This is an application U/S.483 of BNSS by the petitioners for grant of bail in connection with GR Case No. 1875 of 2025 arising out of Bhanjanagar PS Case No. 1130 of 2025 pending in the file of learned SDJM, Bhanjanagar, Dist-Ganjam for commission of offences punishable U/Ss.105/ 296/ 115(2)/ 126(2)/ 351(2)/3(5) of BNS, on the main allegation of committing culpable homicide not amounting to murder.

2. Heard, Mr. Kuresh Prasad Dash, learned counsel for the Petitioners and Mr. C. Mahanty, learned Addl. Public Prosecutor in the matter and perused the record.



3. After having considered the rival submissions upon perusal of record, there appears allegation against the Petitioners for assaulting the deceased by giving fist and kick blows as well as trying to assault with a rod, but the deceased subsequently succumbed to the injuries, however, the IO on completion of investigation submitted charge sheet U/Ss. 105/ 296/ 115(2)/ 126(2)/ 351(2)/ 3(5) of BNS, cognizance of which has been already taken. It is not in dispute that Sec. 105 of BNS prescribes punishment of imprisonment for life or imprisonment for not less than five years, but which may extend to 10 years and such offence is triable by Court of Sessions. It is not dispute that the learned SDJM, Bhanjanagar has granted bail to co-accused Radhamohan Swain, Madan Swain and Sujata Bisoyi for the selfsame accusations, but Sec. 480(1)(i) of the BNSS provides that when any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or **appears** or is brought before a Court other than the High Court or



Court of Session, he may be released on bail, however, Sec. 481(1)(i) of BNSS provides that such person shall not be so released, if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or **imprisonment for life**. However, in the present case, one of the offences alleged against the Petitioners is U/S. 105 of BNS which prescribes one of the punishments as imprisonment for life, but the learned SDJM, Bhanjanagar has granted bail without recording any reason on the ground as stated in Sec.481(1)(i) of BNSS or on the ground as provided in proviso appended to the aforesaid Section which reads as under:-

“Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of 16 years or is a woman or is sick or infirm”

4. In the fitness of the things and taking into consideration the nature and gravity of the offences as alleged against the petitioners vis-a-vis the accusations sought to be brought against them and regard being had to the materials placed on record and the deceased



having died subsequently in the Hospital and after completion of investigation, charge sheet having already been submitted for offences U/Ss. 105/ 296/ 115(2)/ 126(2)/ 351(2)/3(5) of BNS, this Court without expressing any view on merits admits the Petitioners to bail, but subject to certain conditions.

5. Hence, the bail application of the Petitioners stands allowed and they are allowed to go on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) only each with one solvent surety for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper by it with following conditions:-

- (i) the petitioners shall not contact the informant or their family members and*
- (ii) the petitioners shall not threaten/ induce /influence/coerce any of the witnesses including the informant and his family members acquainted with the facts of the case so as to dissuade them from disclosing such facts before the Court.*

6. Before parting, it is to be stated that, the learned SDJM, Bhanjanagar has granted bail to co-accused referred to above for commission of one of the offences U/S. 105 of BNS by simply observing that such



co-accused persons have been served with notice U/S. 35(3) of the BNSS and the case is posted for appearance of the accused persons, but notice as contemplated U/S. 35(3) of the BNSS is meant for cognizable offences punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine subject to satisfaction of other grounds as enumerated in Sec. 35(1) of the BNSS and it is, therefore, considered that not only the police officer erred in applying the law, but also the learned SDJM passed order granting bail to the co-accused persons without adverting to the relevant provision of law. In this situation, especially in order to maintain the majesty of law, this Court considers it proper to advise the learned SDJM, Bhanjanagar to go through the relevant provisions of the law while passing order in such a case as done in this case and this observation is made only to guide the young judicial Officer. A copy of this order be sent to the learned Sessions Judge, Ganjam for onward communication to



the learned SDJM, Bhanjanagar, who is advised to remain vigilant to avoid such situation in future.

7. Accordingly, the BLAPL stands disposed of. Issue urgent certified copy of the order as per Rules. A soft copy of this order be immediately communicated to the concerned Court, who shall afterwards communicate the same to the concerned Jail through e-mail for reference.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 27th day of April, 2026/Priyajit*