

A.F.R.



IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL NO.2580 of 2026

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

Rajesh Khilla @ Khila @ Khillo ... ***Petitioner***

-versus-

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

For Petitioner : ***Mr. A. Biswal, Advocate***

For Opposite Party : ***Mr. M.R. Patra, Addl. PP***

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING :27.07.2026

DATE OF JUDGMENT:28.07.2026

G. Satapathy, J.

1. This is a bail application U/S.483 of BNSS by the petitioner for grant of bail in connection with Jeypore Sadar PS Case No.209 of 2024 corresponding to TR Case No.46 of 2024 pending in the file of learned Addl. District and Sessions Judge-cum-Special Judge, Jeypore, Dist-Koraput for commission of offences punishable U/Ss. 20(b)(ii)(C)/29 of the NDPS Act, on the main allegation of transporting 297Kgs of Contraband Ganja in a Mahindra Supro Car bearing Regd. No. OD-08-F-2045.



2. Heard, Mr. Amit Biswal, learned counsel for the petitioner and Mr. M.R. Patra, learned Additional Public Prosecutor in the matter and perused the record.

3. The Petitioner by way of this bail application has sought for his release on bail claiming non-compliance of Sec. 47 of BNSS r/w Article 22(1) of the Constitution of India, which mainly provides for informing the grounds of arrest to the arrestee immediate after his arrest, otherwise such arrestee shall not be detained in custody, but the Petitioner herein is in custody since 29.06.2024, however, the Petitioner-arrestee has never raised such plea either in the remanding Court or subsequently, thereafter till it was first time raised in the bail application before learned Addl. Sessions Judge, Koraput, which was disposed of in negative against the Petitioner on 07.02.2026. The Petitioner has not only got numerous opportunities to raise such plea earlier, but also has approached this Court thrice in BLAPL Nos. 7097 of 2024, 5772 of 2025 & 154 of 2026 without raising



such plea. In the context, the timing of challenge is important inasmuch as had there been total non-compliance of Sec. 47 of BNSS r/w Article 22(1) of the Constitution of India, the Petitioner would have definitely complained of before the remanding Court or before this Court since these provisions provide safeguards against arbitrary arrest and to make the accused/arrestee aware about the allegations raised against him. Even otherwise, the main purpose behind these provisions is to make the accused aware not only the reason for his arrest, but also the allegation raised against him and thereby, these provisions are not empty formality, rather mandatory in nature and total non-compliance thereof is not only impermissible, but also vitiates the arrest of the arrestee.

4. One of the issues that has been taken up by the Apex Court in a very recent decision of the Apex Court in ***State of Meghalaya Vrs. Sonam Raghuvanshi @ Bitti @ Bittu in SLP (CRL.) No.11944 of 2026, disposed of on 23.07.2026*** is that there is a fundamental difference between non-



service of grounds of arrest and non-furnishing of adequate reasons thereunder; while the first category might vitiate the arrest, in the second category, one has to see the prejudice caused to the accused. In this case, it seems to the Court that no prejudice has been caused to the petitioner; otherwise, he would have raised such plea before the remanding Court or before this Court when he had earlier approached. In view of the principle laid down by the Apex Court in ***Sonam Raghuvanshi (supra)***, inadequate/defective service of grounds of arrest by itself may not vitiate the arrest, unless prejudice appears to have been caused to the arrestee for want of compliance and such prejudice caused to the arrestee must be established by him to make him entitle for the relief of bail.

5. In the context of retrospective application of the plea as raised by the petitioner in his written argument, it appears that this Court by way of a detail order dated 22.05.2026 passed in BLAPL No.10846 of 2025 and other two bail applications, has already held that communication of grounds of arrest to the



arrestee in **writing** may operate prospectively to the arrest on and from the date of pronouncement of judgment in ***Mihir Rajesh Shah Vrs. State of Maharashtra; (2026) 1 SCC 500***, which was delivered on 06.11.2025, but the petitioner herein was arrested much prior to 06.11.2025. This Court, however, considers it proper to reiterate the relevant observations of the Apex Court in ***Mihir Rajesh Shah (supra)*** at paragraph-68, which is extracted as under: -

68. *We are cognizant that there existed no consistent or binding requirement mandating written communication of the grounds of arrest for all the offences. Holding as above, in our view, would ensure implementation of the constitutional rights provided to an arrestee as engrafted under Article 22 of the Constitution of India in an effective manner. Such clarity on obligation would avoid uncertainty in the administration of criminal justice. The ends of fairness and legal discipline therefore demand that **this procedure as affirmed above shall govern arrests "henceforth"**.*

6. The view of this Court that the communication of grounds of arrest to the arrestee in writing to apply prospectively not only gets approval



from **Mihir Rajesh Shah (supra)**, but also gets support from paragraph 09 of the decision in **Sonam Raghuvanshi (supra)**, wherein the Apex Court has held as under: -

"9. Law is quite settled that serving of the grounds of arrest is mandatory. This has been introduced as a Judge made law vide a judgment of this Court in the case of Mihir Rajesh Shah (supra). That is the precise reason why this Court was pleased to hold that though such a procedure is not contemplated, nonetheless, it is so required in order to give effect to Article 22(1) of the Constitution of India. For the said reason, the decision was made to apply prospectively. Admittedly, in the case on hand, the respondent was arrested on 09.06.2025 much before the date of pronouncement of Mihir Rajesh Shah (supra)."

7. For arguendo, accepting the plea as set up by the petitioner, it would be a case of ineffective/inadequate compliance of the provision of Sec.47 of BNSS, but it would not be a case of total non-compliance, however, the arrest memo filed by the petitioner in this case not only discloses the provisions of law for which the petitioner was forwarded to the Court, but also contains the date &



time of his arrest, the signature of the petitioner & the arresting officer in English together with signature of the person/relative of the petitioner to whom information of the arrest of the petitioner was given. In this background, it is to be stated/emphasized that the compliance of Sec.47 of BNSS requires information of the arrestee the particular of the offence(s) and therefore, even considering the submission of the petitioner, it cannot be said that the petitioner is not aware of the allegation raised against him nor can it be considered a total non-compliance of Sec.47 of BNSS, rather at best it would be considered for inadequate compliance thereof which requires establishment of prejudice by the arrestee/petitioner to make him entitle for the relief of bail. In this case, what prejudice has been caused to the petitioner due to inadequate compliance as per his own claim, has neither been disclosed by the petitioner in his bail application nor has been brought by him to the knowledge of the Court. The aforesaid situation makes the petitioner not entitle to the relief as claimed by



him. No doubt the petitioner claims for violation of Art.14 of the Constitution of India, if the relief claimed by him is not extended to, but the position of law having been reiterated by the Apex Court in **Sonam Raghuvanshi (supra)** for prospective application of communication of grounds of arrest to the arrestee, it can be safely said that there is no violation of Art.14 of the Constitution of India. This answers all the questions raised by the petitioner in his written notes of argument.

8. In addition, what is most significant is that the Apex Court in **Sonam Raghuvanshi (supra)** has inter-alia further observed the following at paragraph-12: -

"12. Xxx xxx xxx we would only clarify that when an accused person files a bail application, the stage might become irrelevant. However, when the accused person warranted a finding on merits on the earlier occasions, it is not open for him/her to go back and raise the plea on the issue pertaining to the grounds of arrest thereafter."

09. In view of the above discussions and relying on the law laid down by the Apex Court in



Sonam Raghuvanshi (supra) and Mihir Rajesh Shah (supra), since the petitioner herein was arrested much before the date of judgment of ***Mihir Rajesh Shah (supra)***, no prejudice having disclosed by the petitioner for inadequate compliance of provision according to him and the bail application of the petitioner having been decided on merit earlier occasions, the plea of the petitioner for grant of bail on account of non-supply of grounds of arrest merits no consideration and is liable to be rejected.

10. In the result, the bail application of the petitioner stands rejected. Accordingly, the BLAPL stands disposed of. A copy of this order be immediately transmitted to the learned Court in seisin over the matter.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 28th July, 2026/Priyajit*