A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.1999 of 2026
(CNR No.ODHC010136072026)

In the matter of application under section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

...

Biswa Ranjan Routray ... ***Petitioner***

-Versus-

State of Odisha ... ***Opp. Party***

Advocate(s) Appeared in this case

For Petitioner - Mr.Devashis Panda,
Mr.Sudipto Panda, Advocates

For Opp. Party - Mr.C.R. Swain,
Addl. Govt. Advocate

CORAM :

MR. JUSTICE V. NARASINGH

Date of Hearing & Judgment: 29.10.2026

V. Narasingh, J. Heard learned counsel for the Petitioner and learned counsel for the State.

2. The Petitioner is an accused in connection with T.R. Case No.79 of 2025, pending on the file of learned 1st Additional Sessions Judge-cum-Special Judge under NDPS Act, Khurda, arising out of **Khordha Industrial Estate P.S. Case No.177 of 2025** for alleged commission of offences under Sections 21(c)[1]/29[2] of the

[1] **21. Punishment for contravention in relation to manufactured drugs and preparations:—**
Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses

Narcotic Drugs and Psychotropic Substances Act, 1985 (In short, "N.D.P.S. Act").

3. Learned counsel, on instruction, submits that except the present BLAPL, no other bail application of the Petitioner relating to the aforementioned P.S. case is pending in any other Court.

4. Being aggrieved by the rejection of his applications for bail u/s 483[3] of the BNSS by the

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any manufactured drug or any preparation containing any manufactured drug shall be punishable-
(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:
Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

[2] **29. Punishment for abetment and criminal conspiracy:**—
(1) Whoever abets, or is a party to a criminal conspiracy to commit, an offence punishable under this Chapter, shall, whether such offence be or be not committed in consequence of such abetment or in pursuance of such criminal conspiracy, and notwithstanding anything contained in Section 116 of the Indian Penal Code (45 of 1860), be punishable with the punishment provided for the offence.
(2) A person abets, or is a party to a criminal conspiracy to commit, an offence, within the meaning of this section, who, in India, abets or is a party to the criminal conspiracy to the commission of any act in a place without and beyond India which—

(*a*) would constitute an offence if committed within India; or

(*b*) under the laws of such place, is an offence relating to narcotic drugs or psychotropic substances having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within India.

[3] **483. Special powers of High Court or Court of Session regarding bail:**
(1) A High Court or Court of Session may direct:—
(*a*) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) of Section 480, may impose any condition which it considers necessary for the purposes mentioned in that sub-section;
(*b*) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

learned Spl. Judge under NDPS Act, Khurda, by order dated 10.02.2026 in the aforementioned case, the present BLAPL has been filed.

5. It is submitted by the learned counsel for the Petitioner that he is in custody since 28.07.2025 on the accusation of being in possession of contraband (brown sugar) to the tune of 320 grams. His further continuance in custody is punitive because of the infraction of his "indefeasible right" to be released on default bail on account of violation of Section 36-A(4)[4] of the N.D.P.S. Act, in the process of his fundamental

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Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice:

Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under Section 65 or sub-section (2) of Section 70 of the Bharatiya Nyaya Sanhita, 2023, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.

(2) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under Section 65 or sub-section (2) of Section 70 of the Bharatiya Nyaya Sanhita, 2023.

(3) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

[4] **36-A. Offences triable by Special Courts:**—
(4) In respect of persons accused of an offence punishable under Section 19 or Section 24 or Section 27-A or for offences involving commercial quantity the references in sub-section (2) of Section 167 of the Code of Criminal Procedure, 1973 (2 of 1974) thereof to "ninety days", where they occur, shall be construed as reference to "one hundred and eighty days":

Provided that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Special Court may extend the said period up to one year on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days.

right under Article 21[5] of the Constitution of India is infringed.

6. In the present bail application, the right of the Petitioner for default bail in violation of the statutory prescription for completion of investigation as enjoined in terms of Section 36-A(4) the N.D.P.S. Act is urged.

7. In this context, learned counsel for the Petitioner is relying on the list of dates, which run thus:

> *"LIST OF DATES & EVENTS*
>
> ***28.07.2025*** *-Khordha Industrial Estate P.S. Case No. 177 of 2025 registered. Petitioner arrested and forwarded to Court and remanded till 08.08.2025 (p. 8-14 Annexure-I). Arrest Memo and Grounds prepared and given (Annexure-3)*
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> ***29.07.2025*** *- Sample drawn in Court for C.E.*
>
> ***15.01.2026*** *- Petitioner remanded till 28.01.2026 by court awaiting charge-sheet which is much beyond the 180th day of his remand.*
>
> ***22.01.2026*** *- The charge-sheet (Annexure-I/I) though dated on this date was neither received nor put up before the remanding Court.*
>
> ***23.01.2026*** *- 180th day of Petitioner's remand when no charge-sheet was available in the case record and he was not produced, nor made aware of his indefeasible right of bail and asked if he was prepared to offer sureties and go on bail.*
>
> ***24.01.2026*** *- Charge-sheet dt. 22.01.2026 placed in court on 181st day when Petitioner was not produced, (p.33 Annexure-2).*

[5] **21. Protection of life and personal liberty:**—No person shall be deprived of his life or personal liberty except according to procedure established by law.

27.01.2026 *- Case record put up on strength of advance petition filed by Petitioner's counsel with prayer to release the accused on bail in terms of s. 187(2) BNSS 2023 and while admitting that the chargesheet had been submitted on the 181st day of the initial remand since petition u/s. 187(2) BNSS 2023 was filed after charge-sheet was submitted the Petitioner was not entitled to be released on bail.*

10.02.2026 *- Petitioner's prayer for bail moved and rejected by the learned court below which is impugned in this BLAPL. (Annexure-3).*

xxx xxx xxx"

8. It is the submission of learned counsel for the Petitioner, Mr. Panda, that since admittedly the charge sheet was not submitted in Court by the 180th day and no extension was sought for in terms of the statutory provision of Section 36-A(4) of the N.D.P.S. Act and keeping in view his indefeasible right, which is sacrosanct, the Petitioner is entitled to be released on default bail.

9. And, in this context, a reference is made to the impugned order dated 27.01.2026 at Flag-'D' by which the prayer of the Petitioner for grant of bail on default as is known in common parlance, was rejected.

10. At this juncture, it would be apposite to refer to the order at Annexure-3 wherein the specific stand of the Petitioner was noted by the learned Special Judge and is extracted hereunder:

"Further, he also submitted that the investigation has already been completed and the I.O. submitted charge sheet on 24.01.2026 after lapse of 180 days.

It is the further submission of Mr. Panda, learned counsel for the Petitioner that the prayer of the Petitioner for default bail was earlier dealt with by order dated 27.01.2026 and was rejected inter alia relying on the judgment of the Apex Court in case of ***M. Ravindran v. Intelligence Officer, Directorate of Revenue Intelligence; (2021) 2 SCC 485*** and the judgment relied on by the Petitioner in case of ***Enforcement Directorate, Government of India v. Kapil Wadhwan & another; Criminal Appeal Nos.701-702 of 2020*** was ignored.

11. On perusal of the impugned order, it is manifestly clear that while the order dealt with the accusation of the Petitioner being allegedly found to be in possession of 320 grams of brown sugar and the rigors of Section 37(1)(b)(ii)[6] of the N.D.P.S. Act, the order is conspicuously silent regarding the alleged violation of Section 36-A(4) of the N.D.P.S. Act.

[6] **37. Offences to be cognizable and non-bailable.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974):—

(*b*) no person accused of an offence punishable for offences under Section 19 or Section 24 or Section 27-A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—

(*ii*) where the Public Prosecutor oppose the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

12. To fortify his submission that on the 180th day, if the investigation is not concluded, the Petitioner has a right to be enlarged on bail. The Petitioner relies on the decision of this Court in the case of ***Suresh Chandra Sahoo @ Sura @ Sarat Chandra Sahoo @ Somanath v. State of Odisha***[7], as well as ***Gopal Pal v. State of Odisha***[8].

13. Per contra, learned counsel for the State places reliance on the decision of the Apex Court, on which reliance was also placed by the learned Trial Court in the case of ***M. Ravindran* (Supra)**.

It is also the submission of the learned counsel for the State that by order dated 27.01.2026 the prayer for default bail was rejected. And the same not having been assailed, the present bail application is liable to be rejected on the said score alone.

14. This Court has extracted the order at Annexure-3 by which the prayer of the Petitioner for bail was rejected, wherein it has been categorically stated that the charge sheet in question was submitted on 24.01.2026.

As, by the impugned order at Annexure-3 dated 10.02.2026, the Petitioner also sought release on

[7] Suresh Chandra Sahoo v. State of Odisha, 2023 SCC OnLine Ori 7128.
[8] Gopal Pal v. State of Odisha, 2025 SCC OnLine Ori 1085.

account of infraction of Section 36-A(4) of the N.D.P.S. Act, not entertaining this application on account of the order dated 27.01.2026 not having been challenged, in the considered view of this Court, would amount to sacrificing the right of an accused at the altar of technicality. As such, this Court does not find force in the said submission of the learned Public Prosecutor.

15. An affidavit has been filed by the IIC in the case at hand refuting the prayer for release of the Petitioner on default bail. Paragraph-4 thereof, which is germane for adjudication, is extracted hereunder:

> *"4. That it is further respectfully submitted that after preparation of Charge-Sheet vide C.S. No. 16 dated 22.01.2026, the I.O. could not able to submit on the same day i.e. on 22.01.2026 due to law and order situation and submitted the same before the learned court below on 24.01.2026 (i.e. on 181 days)."*

On a bare perusal of the same, it is seen that admittedly on the 180th day, the charge sheet was not filed.

16. And, curiously enough, as envisaged under Section 36-A(4) of the N.D.P.S. Act, no steps have been taken to seek extension.

17. This Court need not burden this order by relying on a series of precedents to reiterate the settled principle that, while considering bail, the Court has to scrutinise as to whether the prosecution has followed the

timeline religiously, without any exception. The legislature was alive to the peculiar nature of accusation under the N.D.P.S. Act whereby it has doubled the time period of 90 days to 180 days, giving sufficient time to the prosecution to conclude the investigation. Even liberty has been granted to seek extension of time up to one year on the report of the Public Prosecutor indicating the progress of the investigation.

The statutory guidelines have been framed to ensure a balance between the rights of an accused and the needs of society, particularly in cases involving accusations under the N.D.P.S. Act.

18. But, in the case at hand, the statutory prescription, as stated in section 36-A(4) of the N.D.P.S. Act, has been followed in its complete breach and this Court also cannot lose sight of the fact that, as per the mandate, the matter was not even posted before the learned Court in seisin on the 180th day, which indicates that the Court in seisin has also signally failed in appreciating the statutory prescription as stated in section 36-A(4) of the N.D.P.S. Act.

It is candidly admitted by the concerned IIC that the charge sheet could not be filed on the appointed 180th day, and a plea is taken that the same was due to the law-and-order situation.

19. Such plea cannot be countenanced in view of the strict provisions for granting bail in the N.D.P.S. Act as per Section 37(1)(b)(ii) of the N.D.P.S. Act and is an affront to the rights of the accused in custody in terms of Article 21 of the Constitution of India. The quantity of contraband and antecedents pale into insignificance.

20. On a conspectus of materials on record, this Court is left with no other alternative than to arrive at the irresistible conclusion that the prosecution has signally failed in its duty to adhere to the timeline as fixed in Section 36-A(4) of the N.D.P.S. Act and therefore, the Petitioner is entitled to be released on default bail.

Accordingly, it is directed that he be released on bail by the learned Court in seisin of the case on such terms to be fixed by the said Court.

21. The BLAPL is accordingly disposed of.

22. Registry is requested to send a copy of this order via electronic mode to the Superintendent of the concerned Jail, in addition to the communication through Order Communication Portal (OCP) of this Court.

(V. Narasingh)
Judge

Signature Not Verified
Digitally Signed
Signed by: BASUDEV NAYAK
Designation: Addl. Dy. Registrar-cum-Addl. Principal Secy
Reason: Authentication
Location: HIGH COURT OF ORISSA : CUTTACK
Date: 31-Oct-2026 12:50:07