



A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.160 of 2024

(In the matter of an application under Section 528 of B.N.S.S., 2023 read with Section 482 of the Code of Criminal Procedure, 1973.)

Anand K. **Petitioner (s)**

-versus-

State of Odisha **Opp. Party (s)**

Advocates appeared in the case through Hybrid Mode:

For Petitioner (s) : *Mr. Pranab Kumar Ghose, Adv.*

For Opp. Party (s) : *Mr. Tej Kumar, ASC*

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-23.02.2026

DATE OF JUDGMENT:-27.02.2026

Dr. Sanjeeb K Panigrahi, J.

1. In this Criminal Miscellaneous Petition, the petitioner seeks a direction from this Court to quash the criminal proceeding arising out of Sarangada P.S. Case No.137 of 2023 (C.T. Case No.108 of 2023 pending in the court of the learned Special Judge-cum-Additional District & Sessions Judge, Balliguda), contending that his acts were in bona fide discharge of official duty under valid inter-state authorization.

I. FACTUAL MATRIX OF THE CASE:

2. The facts of the case are as follows:

- (i) On 01.11.2023, while S.I. Basudev Sahu of Sarangada Police Station, Kandhamal, was on day patrolling duty at Chanchalasahi



Chhaka, four persons carrying bags were found behaving suspiciously. Upon verification, contraband ganja weighing approximately 17.5 kilograms was detected at the spot.

- (ii) One of the persons disclosed his identity as Anand K., Head Constable of Jigani Police Station, Bengaluru District, Karnataka, claiming that he had come to Odisha in connection with investigation of Jigani P.S. Case No. 242/2023 relating to illegal ganja trafficking.
- (iii) At the time of detection, the petitioner was accompanied by two civilians (one informant and one translator) and one apprehended person, Naresh Pradhan. He was not accompanied by the Investigating Officer of the Karnataka case nor by local Odisha police personnel.
- (iv) The petitioner could not produce, at the spot, any seizure list, arrest memo, case diary extract, forwarding report, or written authority permitting custody or transportation of contraband, nor was there any prior intimation shown to have been given to Sarangada Police Station.
- (v) Consequently, Sarangada P.S. Case No. 137 of 2023 was registered under Sections 20(b)(ii)(B) and 27-A of the NDPS Act, and upon completion of investigation, charge-sheet No. 109 dated 31.10.2024 was submitted, now pending as C.T. Case No. 108 of 2023 before the learned Special Judge-cum-A.D.J., Balliguda.
- (vi) The petitioner has filed the present CRLMC under Section 482 CrPC seeking quashing of the criminal proceeding.



II. SUBMISSION OF THE PETITIONER:

3. Learned counsel for the Petitioner earnestly made the following submissions in support of his contentions:

- (i) The petitioner contends that he was part of a duly constituted special investigation team of Karnataka Police formed in connection with Jigani P.S. Case No. 242/2023 under Section 20(B) NDPS Act, and had obtained an inter-state passport/permit issued by the Superintendent of Police, Bengaluru District, pursuant to permission granted by the competent NDPS Court at Bengaluru.
- (ii) It is asserted that based on CDR analysis and intelligence inputs, the accused Naresh Pradhan and Subash Pradhan were traced to Odisha, and the petitioner, along with team members, informant and translator, reached Sarangada to apprehend them in lawful pursuit under Section 48 CrPC.
- (iii) The petitioner claims that upon interception of the accused at ChanchalasahiChhaka and examination of their bags, local Odisha police arrived, detained the petitioner, seized mobile phones, and registered the present case due to lack of prior coordination, despite subsequent verification of his identity and inter-state authorization.
- (iv) He invokes Section 69 of the NDPS Act, contending that no prosecution lies for acts done in good faith in discharge of official duty under the Act, and submits that the registration of the FIR is



an abuse of process falling within the parameters laid down in *State of Haryana v. Bhajan Lal*¹.

- (v) The petitioner further relies on correspondence from Karnataka Police authorities, revocation of his suspension, and subsequent intimation sent to Sarangada Police Station to demonstrate that he was acting in official capacity and has been falsely implicated due to inter-departmental miscommunication.

III. SUBMISSIONS OF THE OPPOSITE PARTY/STATE:

- 4. Learned counsel for the State earnestly made the following submissions in support of his contentions:
 - (i) The State submits that the inherent jurisdiction under Section 482 CrPC is limited and cannot be invoked where the FIR and charge-sheet materials disclose a prima facie cognizable offence, as per the principles in *State of Haryana v. Bhajan Lal* (supra).
 - (ii) It is contended that at the time of detection, the petitioner failed to produce any contemporaneous written authorization, seizure documents, arrest memo, or prior intimation to local police, thereby raising reasonable suspicion of unlawful possession and transportation of ganja.
 - (iii) The prosecution asserts that the petitioner, a Head Constable, has not produced any notification or statutory empowerment under Sections 41 or 42 of the NDPS Act authorizing him to conduct search, seizure or arrest within the territorial jurisdiction of Odisha.

¹ 1992 Supp. (1) SCC 335



- (iv) The State emphasizes that statutory presumptions under the NDPS Act operate once possession and surrounding circumstances are shown, and the burden to establish lawful authority or good faith conduct is a matter of evidence to be tested during trial, not in quashing proceedings.
- (v) It is argued that the plea of protection under Section 69 NDPS Act and Section 48 CrPC involves disputed questions of fact, including whether the petitioner was duly empowered, whether he acted within statutory limits, and whether his conduct satisfies the requirement of good faith, all of which necessitate full evidentiary scrutiny before the trial court.

IV. EXAMINATION OF THE LEGAL MATRIX:

- 5. Heard learned counsel for the parties and perused the materials placed on record.
- 6. The petitioner's challenge under Section 482 CrPC calls for cautious scrutiny of the statutory scheme and settled law. It is well settled that the High Court's inherent jurisdiction to quash FIR/charge-sheet is "sparingly" exercised and only to prevent abuse of process.
- 7. In *Bhajan Lal (Supra)* the Supreme Court enumerated limited categories warranting quashing, for example, where allegations even taken at face value disclose no offence, or where continuance would result in miscarriage of justice. The petitioner bears the burden of showing that this is an exceptional case. Unless the FIR is palpably frivolous, baseless or the case is mala fide, a trial court's domain will not lightly be invaded.



8. By contrast, here the FIR and charge-sheet allege possession of about 17.5 kg ganja (a quantity far beyond a “small quantity” under the NDPS Act) by the persons intercepted. Those allegations on the face of its disclose cognizable offences under NDPS Act (trafficking and related offences) under Sections 20 and 27A. The petitioner has not shown that the ingredients of any charge are wholly absent or that the process has been misused.
9. Indeed, possession of contraband is prima facie established by the charge-sheet, invoking the statutory presumptions under NDPS law. It is not open to the Court at this stage to determine factual disputes or weigh evidence. As the Court warned in *Bhajan Lal* (supra), interference in ongoing investigation is inappropriate except in cases where non-interference would result in miscarriage of justice. No such exceptional circumstance is made out here in the present case.
10. Section 48 CrPC provides that, “for the purpose of arresting without warrant any person whom he is authorised to arrest, [a] police officer may pursue such person into any place in India”. This all-India power, however, is strictly limited to the arrest of a person “whom he is authorised to arrest.” The petitioner was a Head Constable in Karnataka, not an officer “superior in rank” under Section 42 of the NDPS Act, and had no magistrate’s warrant from Odisha. He carried no authorisation or letter of transit to validly pursue or detain the accused across State lines. He operated entirely without local sanction: no prior intimation was given to Odisha police, nor was any Karnataka IO or warrant-holder present.



In fact, there is no legal basis to treat him as lawfully executing an “inter-state pursuit” under Section 48.

11. On the contrary, the facts suggest that he simply moved contraband across jurisdictions in the company of a suspect, all without coordinating with local authorities. In this situation it cannot be said that the petitioner was engaged in a bona fide “pursuit” under the CrPC provision. The failure to produce any arrest memo, transit remand or coordinating documents further underscores that no lawful arrest procedure took place at the scene. In effect, Section 48 does not afford the petitioner a carte blanche: he was not shown to have legal authority to arrest the person in Odisha, and hence the pursuit power does not validate his actions.

12. Now, Section 69 of the NDPS Act is perused, it grants broad immunity i.e. no prosecution lies against any Government officer or other person “for anything in good faith done or intended to be done under this Act”. This protective clause is intended to encourage officers to act decisively in combating drug crimes. This can be called an amara Section for officers acting in good faith especially their official duty.

13. As held by the Supreme Court in *Bharti Arora v. State of Haryana*², actions taken by police in discharge of their duties are protected by Section 69 unless malafide is shown. The Court observed as follows:

“It could thus be seen that Section 69 of the NDPS Act provides immunity to the Central Government, State Government or any officer of the Central or State Government or any other person exercising any powers or discharging any

²2024 INSC 976



functions or performing any duties under this Act or any rule or order made thereunder from civil or criminal proceedings."

14. However, the key question under Section 69 is factual. The protection extends only where the officer has acted in good faith and within the colour of lawful authority. Whether that threshold is met in the present case cannot be presumed.
15. The petitioner does not dispute that he was found in possession of the contraband. He also does not dispute that no local police authority was associated at the time of search, detention or seizure, nor was any written authorization, case diary extract, seizure memo, or prior intimation produced at the spot. His act of detaining the accused and handling the seized material without the presence of the Investigating Officer of the originating case or any competent local authority raises a serious question: was he acting pursuant to lawful empowerment, or beyond it? The answer to this question cries for a thorough trial.
16. Good faith under Section 69 is not a talisman. There needs to be certain lawful competence to it. An officer may honestly believe he is acting correctly, yet if he has no jurisdiction to do what he did, the statutory shield cannot be mechanically invoked. The existence of authority, the scope of that authority, and the genuineness of the petitioner's belief are all matters intertwined with evidence which is quite invisible in the present case.
17. At this stage, the Court is not called upon to pronounce on guilt or innocence. The limited inquiry is whether the defence of immunity is so unimpeachable that the proceeding deserves to be interdicted at the threshold. Given the disputed circumstances surrounding authorization



and intent, that determination cannot be made in a petition for quashing. These are matters which the State is entitled to test in trial.

V. CONCLUSION:

18. In the result, this Court finds no ground to exercise its extraordinary jurisdiction. The FIR and charge-sheet disclose prima facie cognizable offences, and the petitioner's defences (inter-state cooperation and good faith) raise disputed factual issues inappropriate for pre-trial determination. Even taking the petitioner's version at its face value, the lack of statutory empowerment and procedure by which he detained the accused persons and seized the contraband, casts serious doubt on his claim of acting under lawful authority. The petition does not fall within any category of abuse or non-compliance that would compel quashing at this stage.
19. Accordingly, the petition is **dismissed**. The trial will proceed to decide all questions of jurisdiction, immunity and guilt.
20. The interim order staying the proceedings, if any, passed earlier is vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 27th February, 2026/*