



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 4245 of 2025

Along with

CRLMC Nos.417 of 2026 and CRLMC No.739 of 2026

(In the matters of applications under Section 482 of Criminal Procedure Code, 1973/ Section 528 of Bharatiya Nagarik Suraksha Sanhita).

(In CRLMC No.417 of 2026)

Suresh Kumar Mohapatra @ Suria *Petitioner(s)*
-versus-
State of Odisha & Anr *Opposite Party (s)*

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s) : *Mr. Raghunath Biswal, Adv.*
Mr. Sailaza Nandan Das, Adv.
Mr. Satyajit Mohapatra (2), Adv.

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

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-26.03.2026

DATE OF JUDGMENT:-15.05.2026

Dr. Sanjeeb K Panigrahi, J.

1. Since this issue raised in above-mentioned CRLMCs involve common question of fact and law, those were heard analogously and are being disposed of by this common judgment. For the sake of convivence and effective adjudication, CRLMC No. 4245 of 2025 is treated as the lead case.
2. The Petitioner, through the present CRLMC, calls in question the legality and validity of the arrest of the Petitioner and seeks quashing



of the arrest memo dated 15.05.2025 prepared by the I.O. in connection with the Manchewar P.S. No. 91 of 2025, as well as the consequential remand order dated 16.05.2025 passed by the Court of the learned District and Sessions Judge, Khurda at Bhubaneswar in T.R. No. 110 of 2025. The Petitioner contends that the said arrest and remand are ex facie illegal, arbitrary and contrary to the mandatory provisions contained under Section 47(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023, Section 52(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Article 22(1) of the Constitution of India, inasmuch as the mandatory safeguards relating to arrest and communication of grounds of arrest were allegedly not complied with by the Investigating Agency.

I. FACTUAL MATRIX OF THE CASE:

3. The brief facts of the case are as follows:

- (i) It is submitted that the impugned arrest memo dated 15.05.2025, in Column No. 4 thereof, mentions the "Circumstances of Arrest in brief (Grounds of Arrest)". However, a bare perusal of the contents recorded therein would reveal that the so-called "Reasons of Arrest" mentioned by the Investigating Officer are vague, stereotyped and purely formal in nature. Such reasons are generic expressions which could ordinarily be made applicable to any person arrested in connection with a criminal case. It is contended that the "Grounds of Arrest", as contemplated under law, are required to specifically disclose the material particulars, factual foundation and the incriminating



circumstances available with the Investigating Officer which necessitated the arrest of the accused person. According to the Petitioner, the arrest memo fails to disclose such specific grounds and, therefore, does not satisfy the mandatory legal requirements governing a lawful arrest.

- (ii) On 03.03.2025, one Manas Ranjan Pradhan, who was running a courier service under the name and style of Shree Sai Logistics, submitted a written information before the Inspector-in-Charge, Mancheswar Police Station, alleging therein that the present Petitioner had been sending parcels to different parts of India through the said courier service since the year 2024 and that such parcels generally contained cashew nuts.
- (iii) On 18.02.2025, the Petitioner allegedly dispatched seven parcels containing approximately 275 kilograms of cashew nuts in the name of "Maa Basanti Agency" to one Dhanchan Kumar of Gandhidham, Gujarat. It is further alleged that, again on 24.02.2025, the Petitioner brought another eight packets weighing about 242 kilograms for transportation to Jahangirpuri, New Delhi. However, since the payment towards the courier charges in respect of the said consignments had not been made, the informant kept the transit and delivery of the parcels in abeyance pending clearance of the dues.
- (iv) On 03.03.2025, the Police officials from Gujarat arrived at the office premises of the informant while conducting an inquiry with regard to the consignor/addressor of the parcels which had



been sent through the courier service of the informant on 18.02.2025 to Gandhidham, Gujarat. It was alleged by the Gujarat Police that the said parcels had been intercepted and seized on the suspicion that they contained contraband Ganja (Cannabis).

- (v) On the basis of the aforesaid information, the Inspector-in-Charge of Mancheswar Police Station registered Mancheswar P.S. F.I.R. No. 91 of 2025 dated 03.03.2025 for the alleged commission of offence punishable under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and accordingly took up investigation into the matter in accordance with law.
- (vi) During the course of investigation, the Investigating Agency allegedly seized contraband articles weighing about 210 kilograms and 410 grams. Pursuant thereto, the Investigating Officer, vide arrest memo dated 15.05.2025, arrested the present Petitioner through the Sub-Inspector of Mancheswar Police Station at about 4:00 P.M. on 15.05.2025 in connection with Mancheswar P.S. Case No. 91 of 2025. It is further stated that an arrest memo to the said effect had been prepared at about 3:45 P.M. on the very same day mentioning the aforesaid case reference.
- (vii) Thereafter, the Petitioner was forwarded to the Court of the learned District & Sessions Judge, Khurda at Bhubaneswar on 16.05.2025 in connection with the aforesaid case, whereupon the



learned Court remanded the Petitioner to judicial custody. It is further stated that subsequently, on 23.05.2025, the application for bail preferred by the Petitioner was considered and rejected by the learned Court below.

Being aggrieved by the aforesaid facts and circumstances, the Petitioner has been constrained to approach this Court by filing the present CRLMC Application seeking appropriate relief in accordance with law.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

4. The learned counsel for the Petitioner respectfully and earnestly made the following submissions in support of his contentions:
 - (i) The Petitioner submits that he impugned arrest memo dated 15.05.2025, in Column No. 4 relating to the "Grounds of Arrest", merely records that the Petitioner was arrested "as involve in the above noted case". It is specifically averred that such a vague and mechanical recital does not satisfy the mandatory legal requirement concerning communication of the actual grounds of arrest. According to the Petitioner, the "Grounds of Arrest" are required to contain all material particulars, factual circumstances and incriminating materials available with the Investigating Officer which necessitated the arrest of the accused person. It is contended that the impugned arrest memo conspicuously fails to disclose any such specific grounds and, therefore, suffers from serious legal infirmity.



- (ii) To buttress the aforesaid submissions, the Petitioner places reliance upon the decision of the Hon'ble Supreme Court in arguments the petitioner placed its reliance in the case of *Prabir Purkayastha v. State (NCT of Delhi)*¹, wherein it has been held that the "Grounds of Arrest" communicated in writing to an accused must clearly and adequately convey all the basic facts and material particulars on the basis of which the arrest is made. It was further observed that such communication is essential to enable the arrested person to effectively challenge the custodial remand as well as to seek bail in accordance with law. The Petitioner submits that the ratio laid down in the said judgment is squarely applicable to the facts of the present case.
- (iii) The Petitioner further submits that, in the instant case, except for incorporating certain formal and stereotyped particulars in the arrest memo, the Investigating Officer, in order to justify and validate the arrest of the Petitioner, has merely recorded a mechanical assertion that the "Petitioner is involved in the above noted case." It is contended that such a vague and non-specific statement does not disclose any meaningful or substantive "grounds of arrest" and fails to satisfy the mandatory legal requirement of furnishing the factual basis and material reasons necessitating the arrest of the accused.

¹ (2024) 8SCC 254



- (iv) The Petitioner further places reliance upon the decision of the Supreme Court in *Vihaan Kumar v. State of Haryana & Anr*², wherein it has been clearly settled that the information relating to the grounds of arrest must be furnished to the arrested person in such a manner that he is made aware of all the basic facts constituting the grounds of arrest. It has been further held that such communication must be effective and meaningful, and must be conveyed in a language understood by the arrested person so as to ensure real compliance with constitutional safeguards. The Court emphasized that the mode and manner of communication must be such that the object and purpose of the constitutional protections guaranteed to an arrested person are fully achieved in both letter and spirit.
- (v) The Petitioner contends that although the forwarding report clearly annexes the arrest memo prepared by the Investigating Officer, the learned Court of the District & Sessions Judge, Khurda at Bhubaneswar committed a manifest error in discharging its judicial duty by failing to duly verify whether the mandatory safeguards under Article 22(1) of the Constitution of India, as well as other applicable statutory requirements, had been strictly complied with at the time of arrest. It is submitted that such non-application of mind to the legality of arrest vitiates the consequential remand order passed by the learned Court.

² (2025) 5SCC 599



- (vi) The Petitioner further contends that mere passing of successive remand orders by the learned Court would not cure or validate an initial arrest which is otherwise illegal and not in conformity with the mandatory requirements of law. It is submitted that the requirement of informing the arrested person of the grounds of arrest is salutary, sacrosanct and an essential safeguard guaranteed under the constitutional and statutory framework. Such communication of grounds constitutes the only effective means enabling the arrested person to consult his advocate, meaningfully oppose police custody remand, and effectively seek bail in accordance with law.
- (vii) The Petitioner submits that the aforesaid illegalities committed at the time of arrest go to the very root of the arrest and render the entire arrest illegal, null and void in the eyes of law. It is therefore contended that it was obligatory on the part of the learned District & Sessions Judge, Khurda at Bhubaneswar, to have scrutinized the legality of the arrest at the stage of remand and, upon finding non-compliance with the mandatory safeguards, to have declared the arrest as illegal and directed release of the Petitioner in accordance with law.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES:

5. *Per contra*, the learned counsel for the Opposite Parties earnestly made the submission that the present CRLMC is not maintainable before this Court and deserves to be rejected in limine.



- (i) The Opp. Party submits that, the present CRLMC has been filed belatedly, nearly after five months from the date of arrest i.e. 10.10.2025, and is therefore not maintainable. It is further contended that the Petitioner has already availed and exhausted the efficacious alternative remedy of bail before both the learned Sessions Court as well as this Hon'ble Court, and having failed to secure relief therein, the present proceeding has been instituted as an afterthought, which is not permissible in law.
- (ii) The Opp. Party further submits that the inherent powers under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 are not intended to operate as a substitute for statutory remedies, nor can the same be invoked to circumvent or nullify the outcome of previously availed and exhausted legal proceedings. It is contended that the Petitioner's attempt to assail the arrest and remand orders at such a belated stage, after successive rejection of bail applications, amounts to an abuse of the process of law and is liable to be rejected at the threshold.
- (iii) The Opp. Party contends that the prayer of the Petitioner seeking quashing of the Arrest Memo dated 15.05.2025 as well as the remand order dated 16.05.2025 has, by efflux of time, become infructuous and is not maintainable at this belated stage. It is further submitted that the remand order passed by the learned Sessions Judge, Khurda does not suffer from any jurisdictional infirmity or procedural illegality and is a reasoned judicial order passed upon due application of mind. In such



circumstances, it is contended that no interference is warranted by this Hon'ble Court in exercise of its inherent jurisdiction.

- (iv) The Opp. Party further contends that the forwarding report placed before the learned Sessions Judge at the time of remand categorically sets out the grounds of arrest and the relevant factual basis, thereby demonstrating due compliance with the mandatory requirements under Article 22(1) of the Constitution of India as well as Section 47 of the Bharatiya Nagarik Suraksha Sanhita, 2023. It is submitted that the learned Court, having satisfied itself on the said compliance, rightly proceeded with the remand order, which does not suffer from any illegality or infirmity.
- (v) The Opp. Party submits that the Petitioner did not raise any issue regarding non-communication of the grounds of arrest before the learned Sessions Judge at the time of remand on 16.05.2025, nor was any such objection taken during the hearing of the bail application on 23.05.2025. It is submitted that the same is clearly reflected from the order sheets of the learned Court below. Therefore, it is contended that the present challenge at this belated stage is an afterthought and not maintainable in law.
- (vi) The Opp. Party further submits that the seizure of 210 kilograms and 410 grams of Ganja (Cannabis), which is far in excess of the commercial quantity prescribed under the Narcotic Drugs and Psychotropic Substances Act, 1985, clearly indicates



involvement in a grave offence. It is submitted that under the said Act, the commercial quantity for Ganja is 20 kilograms, and the alleged recovery in the present case being substantially higher than the commercial quantity, attracts the stringent provisions of Section 37 of the NDPS Act. Accordingly, it is contended that the continued custody of the Petitioner is legally justified in view of the statutory restrictions on grant of bail in cases involving commercial quantity of contraband.

IV. COURT'S REASONING AND ANALYSIS:

6. Heard Learned Counsel for parties and perused the documents placed before this Court.
7. At the outset, it is to be noted that it is imperative to delve into the constitutional mandate and statutory provisions relatable to informing of grounds of arrest to the arrested person as well as the existing jurisprudence as developed by this Court while dealing with such provisions. The scope of Article 22(1) of the Constitution the object of the provision is to ensure that the arrested person is made aware of the basis of the arrest so as to enable him to exercise legal remedies.
8. The genesis of informing the grounds of arrest to a person flows from the Constitutional safeguard provided in Article 21 of the Constitution of India, which reads "No person shall be deprived of his life or personal liberty except according to procedure established by law". The expression 'personal liberty' has been given a wide meaning through various judicial pronouncements. One of which is that



personal liberty includes procedural safeguards from the abuse of power by the State agencies and scrutiny of the actions of the State.

9. Article 22 of the Constitution of India further strengthens the protection of personal liberty of a person by providing that a person arrested must be informed of the grounds of his arrest at the earliest and should not be detained without informing him of such grounds.
10. The Constitutional safeguard provided under Article 22 of the Constitution of India has been effectuated by the legislature by incorporating Section 50 of Cr.P.C./ Section 47 of BNSS, which puts into force the procedural mandate providing for the protection of the personal liberty of the person so arrested. Section 47 of BNSS casts a duty on the police officer or other person arresting any person without a warrant shall communicate him the grounds of arrest.
11. It mandates that no arrested person shall be detained without being informed of the grounds of such arrest at the earliest opportunity. The manner in which such grounds are to be communicated must be efficacious and substantive which must fulfill the essential objective and mandate of the constitutional provisions.
12. The constitutional requirement under Article 22(1) of informing an arrested person of the grounds of arrest stands satisfied where the arrest memo, containing the essential factual allegations forming the basis of the arrest, is supplied to the accused. This Court observed that the mandate is to ensure meaningful communication of the substance of accusations, and not necessarily to provide a separate document distinct from the arrest memo.



13. In the present case in hand, this Court found that the arrest memo in the present case contained the substance of the allegations and had been supplied to the Petitioner at the time of arrest. In such circumstances, the requirement of communication of grounds of arrest stood substantially complied with. So, the object of Article 22(1) of the constitution is to ensure that the arrested person is made aware of the accusations forming the basis of the arrest. If such information is conveyed through the arrest memo or any contemporaneous document supplied to the accused, the requirement of communication of grounds of arrest cannot be said to have been violated.
14. The constitutional mandate requires that an arrested person must be informed of the grounds of arrest, and such communication must be meaningful and effective so as to enable the arrested person to understand the basis of the accusation against him and to prepare his defence.
15. The compliance as required under Section 47(1) of BNSS mandatorily requires every police officer or other person arresting any person without warrant to forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest. Similarly, Article 22(1) inter alia says no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest.
16. Here, the matter dealt on the plain reading of the aforesaid law laid down by the Supreme Court, it appears that the written communication of grounds of arrest to the arrestee is applied



prospectively from the date of delivery of judgment in *Mihir Rajesh Shah v. State of Maharashtra*³ which has been rendered on 06.11.2025, but the arrest in the present case relates and has happened prior to this date and therefore, the contention/plea of the petitioner is found unmerited.

17. In the present case, the aforesaid arrest memo was not only signed by the arresting officer, but also by the arrestee and, therefore, the communication of grounds of arrest to the petitioner is in the line of Section 47 of BNSS.
18. The Supreme Court in *Kasireddy Upendra Reddy v. State of Andhra Pradesh*,⁴ wherein it has been held that:

“36. If a person is arrested on a warrant, the grounds for reasons for the arrest is the warrant itself; if the warrant is read over to him, that is sufficient compliance with the requirement that he should be informed of the grounds for his arrest. If he is arrested without a warrant, he must be told why he has been arrested. If he is arrested for committing an offence, he must be told that he has committed a certain offence for which he would be placed on trial. In order to inform him that he has committed a certain offence, he must be told of the acts done by him which amounts to the offence. He must be informed of the precise acts done by him for which he would be tried; informing him merely of the law applicable to such acts would not be enough.”

19. The Supreme Court also echoed in *Narcotic Control Bureau v. Kashif*,⁵ wherein it has been held that:

³ 2025 INSC 1288 (Supreme Court)

⁴ 2025 SCC Online SC 1228

⁵ 2024 11 SCC 372



“34. Section 52-A was inserted only for the purpose of early disposal of the seized contraband drugs and substances, considering the hazardous nature, vulnerability to theft, constraint of proper storage space, etc. There cannot be any two opinions on the issue about the early disposal of the d contraband drugs and substances, more particularly when it was inserted to implement the provisions of International Convention on the Narcotic Drugs and Psychotropic Substances, however delayed compliance or non-compliance with the said provision by the officer concerned authorised to make application to the Magistrate could never be treated as an illegality which would entitle the accused to be released on bail or claim acquittal in the trial, when sufficient material is collected by the investigating officer to establish that the search and seizure of the contraband substance was made in due compliance with the mandatory provisions of the Act.”

20. In the present case, there is no violation of any fundamental rights of the Petitioner as alleged. The materials on record clearly indicate that the Petitioner was duly made aware of the grounds of arrest at the time of preparation of the arrest memo and was also informed of the same at the stage of remand proceedings. It is, therefore, submitted that the requirement of law stands substantially complied with.
21. It is a well-settled principle that ignorance of law cannot be taken as an excuse. If such a plea is permitted to be accepted in a routine manner, it would virtually render the criminal justice process otiose and ineffective, leading to a situation where accused persons may seek to evade due process of law on technical pleas, thereby frustrating legitimate prosecution. Such an interpretation would not only impede the course of justice but also create a situation where



undertrial prisoners and offenders alike may misuse procedural safeguards to avoid lawful custody, thereby adversely affecting the administration of criminal justice and public interest at large.

V. CONCLUSION:

22. In view of the foregoing analysis, and after careful consideration of the material facts and circumstances of the case, this Court is of the considered opinion that the allegations, if taken at their face-value, disclose a prima facie case against the Petitioner which requires adjudication at trial. The pleas raised by the Petitioner pertain to matters of defence which cannot be examined in proceedings under Section 482 CrPC/ 528 of BNSS.
23. Accordingly, this Court does not find any ground to interfere with the criminal proceedings in exercise of its inherent jurisdiction under Section 482 of Cr.P.C/ Section 528 of BNSS.
24. Before parting, this Court deems it appropriate to direct the Director General of Police, Odisha to issue a circular to all the police stations of the State mandating compulsory mentioning of the ground(s) of arrest (in the Arrest Memo) which must be furnished to the accused in writing in a language comprehensive to the arrestee as prescribed in *Mihir Rajesh Shah v. State of Maharashtra*⁶.
25. Accordingly, the CRLMC No.4245 of 2025 along with CRLMC No.417 of 2026 and along with CRLMC No.739 of 2026 stand **dismissed**.
26. Interim order, if any, passed earlier stands vacated.

⁶ 2025 INSC 1288 (Supreme Court)



27. A copy of this order be shared with the counsel for the State for onward transmission.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated 15th May, 2026/