



IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No. 2573 of 2026

Ajay Kumar Rai @ Ray

Petitioner

....

Mr. P.K. Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. S. Panigrahi, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

08.05.2026

Order No.

- 02.** 1. Heard learned counsel for the Petitioner and learned counsel for the State.
2. The Petitioner is seeking pre-arrest bail in connection with T.R. Case No. 97 of 2021 pending on the file of learned Additional Session Judge-cum-special Judge, Gunupur, arising out of Padmapur P.S. Case No.83 of 2021 for commission of offences punishable under Sections 20(b)(ii)(C)/ 25/ 29 of the NDPS Act.
3. Admittedly, the allegation against the present Petitioner is that, his vehicle was involved in the transportation of contraband (Ganja) to the tune of 1008 Kg.
4. It is submitted that, the co-accused who was taken to custody, faced trial and by Judgment dated 02.11.2024 in T.R. No.97 of 2021 he has acquitted, inter alia, on the ground of violation of the mandatory



provisions as contained in Sections 42 and 50 of NDPS Act.

5. The attention of this Court is also drawn to the observation made by the learned Court in seisin that the vehicle in question shall be released in favour of the lawful owner.

6. It is stated that, since the vehicle was not released, the Petitioner had to file an application under Section 498 of the BNSS and by order dated 02.09.2025, the same has been allowed.

Referring to the same, the learned Counsel for the Petitioner submits that the Petitioner may be enlarged on pre-arrest bail.

7. Learned Counsel for the State opposes such prayer in view of the bar contained in 37(1)(b)(ii) of the NDPS Act.

8. It is trite that the evidence, in respect of the accused, who was put to trial cannot be relied upon in respect of an accused who is not in the dock.

9. Though this Court is conscious of the fact that the nature of evidence and the peculiar stipulations under Sections 42 and 50 of NDPS Act, will apply in equal measure in respect of the co-accused as well.

10. There is no explanation as to how the Petitioner's vehicle got involved in the commission of the offence though the stand is taken that it is the handiwork of driver of the Petitioner.



11. There is nothing in record to indicate that the Petitioner has taken any steps to take his vehicle, which evidently got involved in the offence. In view of the rigors of the Section 37(1)(b)(ii) of the NDPS Act, qua the Petitioner, this Court is not inclined to entertain the application for pre-arrest bail. However, in the event the Petitioner surrenders before the learned Court in seisin in the aforesaid case and moves an application for his release on bail, the same shall be considered on its own merit, which being prejudiced by the observations made in this order.

12. The ABLAPL accordingly, stands disposed of.

(V. NARASINGH)
Judge

Jina/Mili

Signature Not Verified

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