



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLMP No. 353 of 2026**

***Ratikanta Palei***

....

***Petitioner***

Mr. P.C. Sejpada, Advocate

*-versus-*

***1. State of Odisha, represented through  
the Secretary, Department of Home,  
Bhubaneswar***

***2. Director General of Police,  
Buxibazar, Cuttack***

***3. Superintendent of Police, Ganjam***

***4. I.I.C., Khallikote Police Station***

....

***Opp. Parties***

Mr. Saroj Kumar Rout,  
Additional Standing Counsel

**CORAM:**

**HON'BLE MISS JUSTICE SAVITRI RATHO**

**ORDER**

**23.03.2026**

**Order No.**

(Through hybrid Mode)

01.        1.        This CRLMP has been filed for a direction to the Opposite Parties No.3 and 4 to arrest the accused persons or direct any other independent agency for investigation in this case in connection with Khallikote P.S. Case No. 997 of 2025 for best interest of justice.
2.        It appears that Khallikote P.S. Case No. 997 of 2025 has been registered against accused Chintu Palei, Raja Palei, Bibhu Pradhan, Sankar Sahu and Achyuta Swain for commission of offences punishable under Sections 127(2), 296, 115(2), 74, 76, 351(3), 3(5) of BNS.



3. Mr. Saroj Kumar Rout, learned Additional Standing Counsel submits that all these offences are punishable for imprisonment up to seven years.

4. Section 35 of the BNSS is extracted below:-

*“35. (1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—*

*(a) who commits, in the presence of a police officer, a cognizable offence;*

*(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:—*

*(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;*

*(ii) the police officer is satisfied that such arrest is necessary—*

*(a) to prevent such person from committing any further offence; or*

*(b) for proper investigation of the offence; or*

*(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or*

*(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or*



*(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured,*

*and the police officer shall record while making such arrest, his reasons in writing:*

*Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest;*

*(c) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence;*

*(d) who has been proclaimed as an offender either under this Sanhita or by order of the State Government; or*

*(e) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or*

*(f) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or*

*(g) who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or*

*(h) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out*



*of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or*

*(i) who, being a released convict, commits a breach of any rule made under sub-section (5) of section 394; or*

*(j) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.*

*(2) Subject to the provisions of section 39, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.*

*(3) The police officer shall, in all cases where the arrest of a person is not required under sub-section (1) issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.*

*(4) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.*



*(5) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.*

*(6) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.*

*(7) No arrest shall be made without prior permission of the officer not below the rank of Deputy Superintendent of Police in case of an offence which is punishable for less than three years and such person is infirm or is above sixty years of age.”*

5. In paragraphs-5 and 6 of the CRLMP, it has been stated that despite of several visits and approach of the Petitioner, the Opposite Party No.4 has not taken any action for arresting the accused persons because they are influential persons of the locality and although he has sent a representation to the S.P. Ganjam on 30.12.2025 by speed post, no action has been taken against the accused persons.

6. As FIR has been registered against the accused persons, it is incumbent on the I.I.C. and I.O. in the case to proceed with investigation and against the accused in accordance with law. The police normally does not arrest an accused where the offences provide for imprisonment for seven years or less, unless the conditions prescribed in Section 35(1)(b) of BNSS are



satisfied or the accused violates the terms of the notice issued under Section 35(3) of the BNSS.

7. Hence, the CRLMP is disposed of directing the Opposite Party no.4 to proceed with the investigation of the case in accordance with law and arrest the accused persons in case of non-compliance of the provision of Section 35(3) of the BNSS.

8. Urgent certified copy of this order be granted on proper application.

***(Savitri Ratho)***  
***Judge***

*Sukanta*