



IN THE HIGH COURT OF ORISSA AT CUTTACK

TRPCRL No.31 of 2026

Renuprava Nayak

....

Petitioner

Mr. Asit Kumar Jena, Advocate

-versus-

State of Odisha and others

Opp. Parties

Mr. D.N. Lenka, AGA

CORAM:

JUSTICE MRUGANKA SEKHAR SAHOO

ORDER

02.07.2026

Hybrid Mode

Order No.

03.

1. The petitioner before this Court is the complainant and one of the witnesses in Khandapada P.S. Case No.21 of 2023, corresponding to G.R. Case No.21 of 2023 under Section 420/294/507/34 of the I.P.C., now pending in the Court of the learned J.M.F.C. She seeks transfer of trial from the court of learned J.M.F.C., Khandapada to learned S.D.J.M., Cuttack.

2. On 21.05.2026, after hearing the learned counsel for the petitioner the facts as well as the propositions of law were noted.

3. To support the prayer for transfer, it is submitted by the learned counsel for the Petitioner referring to copy of the charge sheet annexed to the petition at Page-19 regarding the witnesses 1 to 5. It is submitted all the witnesses



belong to Cuttack. Witness No.6 belongs to Boudh. He submits that since all witnesses belong to Cuttack matter should be transferred to the Court of learned S.D.J.M., Cuttack. The Petitioner being a lady, she has difficulty to appear at Khandapada. Therefore, it should be transferred.

4. In response to the same, learned counsel for the Petitioner was asked under which provision of Cr.P.C./BNSS, 2023 this Court has the power to transfer the case on the ground that it has to be at a place where all the witnesses reside though the cause of action arises at a place where the trial is pending.

The learned counsel was requested to apprise any provision in the Cr.P.C. or any case law where convenience of the witness/residence of witness shall be the basis of transfer of pending trial from the Court which has jurisdiction as defined in Chapter-XII of the Cr.P.C., particularly Sections 177 & 178.

5. Learned counsel submits that this Court has power under Section 407 of the Cr.P.C. (since repealed and substituted by *pari materia* provision contained 447 of BNSS, 2023).

6. Learned counsel for the Petitioner then refers to Paragraphs-6 & 7 of the application, which state thus:



“6) That, it is most humbly states here that, the Opp. Party No-2&3 are the local persons of Khandapada area and having influence in their locality after registration of this F.I.R against their name the 7 to 8 times given threatened the petitioner to withdraw the case otherwise they kill me and my family. The accused persons also threatened that if the petitioner and other witnesses go to learned J.M.F.C Court Khandapada to depose in this case, they will certainly beat them may and may kill also.

7) That, after getting frequent threat from the Opp. Party No-2&3 she has not lodged any F.I.R due to fear but she has intimated to her relation who have told that they cannot fight (legally) with them as they are the unsocial persons.”

7. With reference to the statements made by the Petitioner at Paragraphs 6 & 7 the learned counsel is asked whether the present petitioner has made any complaint before the law enforcement agency and if the Petitioner feels threatened at Khandapada, how by transfer of the trial to Cuttack, that can be ameliorated without the matter being informed to the law enforcement agency. It is submitted that the Petitioner is a lady, she has chosen not to lodge any F.I.R. after receiving threats.

8. Learned counsel for the Petitioner is also apprised of the fact that since threatening of witness particularly the complainant amounts to interference in the dispensation of justice in the pending trial before the learned J.M.F.C.,



Khandapada whether any complaint or any appraisal has been made to the learned J.M.F.C.

It is submitted that there is no such provision where the Court in which the trial is pending can be apprised if the witness is threatened or the trial is interfered with.

9. It is therefore submitted by the learned counsel for the Petitioner that the power conferred under Section 407 of the Cr.P.C. (since repealed and substituted by *pari materia* provision contained in 447 of BNSS, 2023) can be exercised by this Court to transfer trial pending looking at convenience of the witnesses and when there is threat perception to the Petitioner though petitioner chooses not to inform the law enforcement agency the court in seisin of the matter.

10. On being further asked whether any such precedence regarding convenience of witnesses and wherever the complainant thinks it proper to pursue the matter, it is submitted that this Court can create precedence by passing such an order.

11. Copy of this order shall be forwarded to the learned J.M.F.C., Khandapada to furnish a report if any complaint will be made regarding interference with the trial like threat to witness/complainant, whether the said court/appropriate court can proceed in the



matter to ensure free and fair trial under the provisions of law. The reports shall be obtained by the Registry by forwarding copy of this order along with copy of the RPFAM application by e-mail to the learned court.

I.A. No.23 of 2026

12. Learned counsel for the Petitioner insists for an interim order regarding adjournment of the proceeding.

On being asked, he submits that cognizance has been taken.

The I.A. shall lie over.

The matter shall be listed for 'Fresh Admission' in the week commencing 29th June, 2026."

3. The learned counsel for the petitioner is again heard at length.

Pursuant to the order dated 21.05.2026, report dated 22.06.2026 has been received from the learned A.C.J.(J.D)-cum-J.M.F.C., Khandapara. The report indicates the details of steps taken by the learned Judge as well as other relevant aspects of the pending trial and is reproduced herein:

"On perusal of the case record, it appears that Non-Bailable Warrant of arrest was issued against the accused persons on 31.07.2024. Cognizance of the alleged offences was taken on 21.08.2024. Subsequently, the accused persons appeared before the Court and sought bail. The bail application of the accused Namita Naik was rejected by this Court on 23.09.2025 and she



was thereafter released on bail on the same date pursuant to the order passed by the Hon'ble Sessions Judge, Nayagarh. Similarly, the bail application of the accused Kishore @ Kishore Chandra Naik was rejected by this Court on 10.12.2025 and he was thereafter released on bail on the same date pursuant to the order passed by the Hon'ble Sessions Judge, Nayagarh. Upon consideration of the materials available on the record, charge was framed against the accused persons on 23.12.2025. The case is presently posted to 14.08.2026 for prosecution evidence and the proceeding is continuing in due course in accordance with law. It is further submitted that the necessary inquiry was made with the C.A.S.I. and the Dealing Assistant attached to the complaint case section and the case record was also perused. It is found that till date no complaint, report or information has been received from the informant, witnesses or any other person alleging threat, intimidation or any interference with the fair conduct of the trial by any of the accused persons or on their behalf.

It is also submitted that, pursuant to the aforesaid order of the Hon'ble High Court, this Court had intimated the Inspector-in-Charge, Khandapada Police Station and the learned Public Prosecutor, Nayagarh to furnish reports regarding (i) whether any complaint, report or information had been received concerning any threat, intimidation or interference with the fair conduct of the trial by the accused persons or on their behalf, and (ii) whether the victim/informant or any of the charge-sheeted witnesses had sought protection under any Witness Protection Scheme. Upon receipt of the compliance reports from the aforesaid authorities, copies of which are enclosed herewith and form part of this report, it is found that no such complaint, report or information has been received by them till date. It is further reported that neither the victim/informant nor



any of the charge-sheeted witnesses has sought protection under the Witness Protection Scheme. In view of the above, upon perusal of the case record, inquiry made through the concerned Court staff and consideration of the reports received from the Inspector-in-Charge, Khandapada Police Station and the learned Public Prosecutor, Nayagarh, there is presently no material before this Court to indicate any obstruction to the free and fair conduct of the trial or any circumstance necessitating protection of the victim/informant or witnesses under the Witness Protection Scheme. However, if any such complaint, information or request for protection is received in future, appropriate steps shall be taken in accordance with law by this Court to ensure a free and fair trial.

In view of the foregoing, this report is humbly submitted for kind consideration and further orders. All relevant records and supporting documents are annexed hereto for ready reference.

*Annexure: 1. Copy of this Office Letter No. 788 dtd.18.06.2026 to IIC, Khandapada P.S.
2. Copy of this Office Letter No. 789 dtd.18.06.2026 to the Ld. P.P., Nayagarh.
3. Copy of D.R. No. 1171 Dtd./PS dtd. 18.06.2026 received from IIC, Khandapada P.S.
4. Copy of Letter No. 372 Dtd.18.06.2026, received from Ld. P.P., Nayagarh.”*

4. The learned counsel for the petitioner again reiterates his submissions referring to Section 407(1)(c) of Criminal Procedure Code, 1973 (since repealed and substituted by *pari materia* provision contained in Section 448(1)(c) of Bharatiya Nagarik Suraksha Sanhita, 2023).



It is submitted that the general convenience of the parties or the witnesses would mean that the trial should be held at the place where the witnesses reside.

5. In considered view of this Court, the said interpretation by the learned counsel is not in accordance with the language used in the section, and 'general convenience' cannot be interpreted that the trial should be at the place where the witnesses reside/opt to reside.

6. Regarding the issues raised by the petitioner in the present application, it has to be noted from the report of the learned A.C.J. (J.D)-cum-J.M.F.C., Khandapada that the learned court has taken up and dealt with the issues with due diligence and has proceeded in accordance with law.

7. This Court is not inclined to grant the prayer for transfer of the trial pending before the learned J.M.F.C., Kandapada to the learned S.D.J.M., Cuttack.

8. The petitioner, if so advised, may seek witness protection under the witness protection scheme which shall be dealt with in accordance with law.

9. The TRPCRL is disposed of.

Copy of this order shall be forwarded to the court of learned J.M.F.C., Khandapada to be kept in the records of G.R. Case No.21 of 2023.

Signature Not Verified

Digitally Signed
Signed by: GAGAN BIHARI SAMAL
Reason: Authentication
Location: OHC
Date: 09-Jul-2026 18:10:30



(Mruganka Sekhar Sahoo)
Judge