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IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.3105 of 2026

Bikash Padhi

.....

Petitioner

Mr. Himanshu Bhusan Dash, Adv.

-Versus-

State of Odisha

....

Opposite Parties

Mrs. Sarita Moharana, ASC

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

ORDER

04.05.2026

Order No.

01.

PR No.	Dated	Police Station	Case No. and Courts' Name	Sections
106	10.03.2026	Excise Station, Nimapada Range, Puri	Spl. GR case No.21 of 2026 pending in the Court of learned Additional Sessions Judge-cum-Special Judge, Nimapada	U/S. 21(b) of the NDPS Act, 1985

1. This matter is taken up through hybrid arrangement.
2. The petitioner being in custody in connection with Excise Station, Nimapada Range, Puri P.R. No.106 of 2025-26, corresponding to Spl. G.R Case No.21 of 2026 pending in the Court of learned Additional Sessions Judge-cum-Special Judge,



Nimapada, registered for the alleged commission of offence under Section 21(b) of the NDPS Act, has filed this petition for his release on bail.

3. The brief fact of the case is that on 10.3.2026 at about 12.15 P.M. the Inspector of Excise, Nimapara Range, Puri along with his staff was patrolling near Maa Mangala college under Kakatapur P.S. At that time one person came in a Bajaj Pulsar motor cycle to the main gate of Maa Mangala college road. Seeing the vehicle of Excise Department, he left his vehicle and tried to run away suspiciously. They detained that person and on search recovered 112 grams of heroin, one Realme smart phone and cash of Rs.1600/- from the possession of that person. The heroin was seized and the person was arrested and forwarded to the Court.

4. Learned counsel for the Petitioner submits that the Petitioner has been languishing in custody since 23.02.2026. He further submits that, the quantity of heroin is of 112 gram which is below commercial quantity and he had no knowledge about the possession of the said contraband articles. The Petitioner has no criminal antecedents to his credit. Therefore, learned counsel for the petitioner prays that the bail application of the petitioner may be favourably considered and he may be allowed to go on bail in the interest of justice.



5. Learned counsel for the State vehemently opposes the prayer for bail of the present Petitioner on the ground that the offenders dealing with such substances do not deserve leniency and hence, he, accordingly, prays for dismissal of this BLAPL.

6. Considering the submissions made on behalf of both the parties, this Court finds that this petition centers on a plea for bail in a case involving the alleged possession and transportation of Heroin. Under the NDPS Act, offences of this nature invoke a stricter threshold for bail. The Court is required to form a reasoned belief not only that the accused may be innocent but also that the likelihood of reoffending while on bail is minimal.

7. In evaluating bail for offences involving commercial quantities under the NDPS Act, the Court must look beyond isolated facts and assess the wider operational context. Such crimes often involve coordinated efforts among multiple individuals and cannot be understood in isolation. Therefore, a comprehensive analysis of the interconnected roles and circumstances surrounding the offence is essential.

8. It is well settled that bail jurisprudence under the NDPS Act, particularly for commercial quantities, is governed by a more stringent test. In the case of *Union of India v. Ajay Kumar Singh @*



Pappu¹ the Supreme Court reiterated the stance that no person accused of trading commercial quantity of narcotics is liable to be released on bail unless Court is satisfied of reasonable grounds proving innocence. The relevant excerpts are produced below:

“16. In view of the above provisions, it is implicit that no person accused of an offence involving trade in commercial quantity of narcotics is liable to be released on bail unless the court is satisfied that there are reasonable grounds for believing that he is not guilty of such an offence and that he is not likely to commit any offence while on bail.

17. The quantity of “ganja” recovered is admittedly of commercial quantity. The High Court has not recorded any finding that the respondent-accused is not prima facie guilty of the offence alleged and that he is not likely to commit the same offence when enlarged on bail rather his antecedents are indicative that he is a regular offender. In the absence of recording of such satisfaction by the court, we are of the opinion that the High Court manifestly erred in enlarging the respondent-accused on bail.”

9. At the bail stage, the Court is not expected to determine the guilt of the accused. However, it must assess whether the material on record provides reasonable grounds to believe that the accused is not guilty. This includes a holistic consideration of all statements, documents, and evidence gathered during the investigation. Even if

¹ 2023 SCC OnLine SC 346



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such material does not conclusively prove innocence, it cannot be dismissed outright, as doing so would undermine the legal standard set by Section 37 of the NDPS Act.

10. The Petitioner's involvement, whether direct or peripheral, warrants full scrutiny at trial. Granting bail at this stage would risk a premature assessment of facts, which this Court is not inclined to undertake.

11. The Court is conscious that the Petitioner has spent considerable time in custody. But in cases under the NDPS Act involving commercial quantity, bail cannot be granted only on the basis of time spent. The law requires reasonable grounds to believe the accused is not guilty and will not commit a similar offence. That test is not met in the present case.

12. Accordingly, the BLAPL is dismissed.

(Dr. Sanjeeb K Panigrahi)

Judge

Gitanjali