



IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL NO.4000 of 2026

(In the matter of application under Section 483 of BNSS, 2023).

Sonu@Sonu Nigam Biswal ... ***Petitioner***

-versus-

State of Orissa ... ***Opposite Party***

For Petitioner : ***Mr. A. Tripathy, Advocate***

For Opposite Party : ***Mr. P. Satpathy, Addl. PP***

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:07.05.2026(ORAL)

G. Satapathy, J.

1. This is an application U/S.483 of BNSS by the petitioner for grant of bail in connection with Nayagarh P.S. Case No.456 of 2025 corresponding to G.R. Case No.1363 of 2025 pending in the file of learned S.D.J.M. Nayagarh, for commission of offences punishable U/Ss.318(2)/336(3)/340(2)/61(2)/111/3(5) of BNS r/w Sec.65/72 of the IT Act.

2. Heard, Mr. Amitav Tripathy, learned counsel for the petitioner appearing and Mr. P. Satpathy, learned Addl. Public Prosecutor in the matter and perused the record.



3. One of the ground under which the Petitioner has sought for bail is noncompliance of the provision of Section 47 of BNSS r/w Sec.22(1) of the Constitution of India. Section 47 of BNSS prescribes that “every police officer or other persons arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest” and Sub-section 2 therein, provides that where a police officer arrest without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for the surety on his behalf. Besides, it is made imperative for the arresting officer to inform the grounds of arrest in view of the article 22(1) of the Constitution of India, which precisely cast a duty on the arresting officer to inform the grounds of arrest to the arrestee. What is the primary objective behind informing the ground of arrest has been succinctly laid down and explained by a plethora of decisions and the objective behind informing the arrestee to know



precisely about the accusation against him so as to enable him to engage a counsel of his choice for meaningful defence. The provisions are not empty formalities, but are statutory as well as constitutional guarantee to an arrestee and it aims at providing safeguard to the arrestee from illegal detention and arrest.

4. It is no more *res-integra* that the law that has been evolved is that the arrestee must be informed of the grounds of arrest in writing in the language he understands and that too, if not possible immediate after the arrest, at any time just two hours prior to his production before a Magistrate. In this regard, this Court considers it proper to refer to paragraphs-47 and 62 of the decision in ***Mihir Rajesh Shah Vrs. State of Maharashtra; (2026) 1 SCC 500;*** which reads as under:-

*"47. Another aspect, which flows from the above discussion and merits consideration is the **mode of informing grounds of arrest** to the arrested person to effectively serve the intended purpose of Article 22(1) of the Constitution of India. This Court, as observed*



above, had held that **it would not be ideal to read out the grounds of arrest to a person who is arrested, as he may not be in the frame of mind to remember the contents of grounds that are read out to him.** The Court underscored that if the authorities are permitted to read out the grounds and claim compliance with the constitutional and statutory mandate, **the very purpose of the constitutional protection would be nugatory.**

62. xx xxx xx in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, while informing the grounds of arrest in writing on arrest each is rendered in practical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. **Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the Magistrate for remand proceeding.** The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the Magistrate."

5. On applying the provisions of law together with the principle laid down by Apex Court in **Mihir Rajesh Shah (supra)** to the facts of the present Case,



it appears that the Petitioner was arrested at about 3.05 PM on 19.03.2026, but the arrest memo does not contain any column with regard to communication of grounds of arrest to the petitioner. Even otherwise, the analogy that has been given by the learned Sessions Judge is accepted that the grounds of arrest has been mentioned in the arrest memo, but only circumstance of arrest has been stated in paragraph-4 of the arrest memo, which reads as under:-

"As the accused is liable U/s.318(2)/336(3)/340(2)/111/61(2)/3(5) BNS, 2023 r/w Sections 65/72 of the Information Technology Act, 2000."

6. On a plain perusal of the aforesaid arrest memo, this Court nowhere finds that the accused has been communicated with the grounds of arrest or the copy of any grounds of arrest in writing has been supplied to the accused/petitioner or he has acknowledged to have received the same. The safeguard as provided with regard to information of ground of arrest is not an empty formality, but is a constitutional guarantee, however, non-compliance of constitutional



guarantee with regard to information of grounds of arrest as contemplated under Article 22(1) of the Constitution of India not only vitiates the arrest of the arrestee, but also vitiates the subsequent remand as held by Apex Court in ***Mihir Rajesh Shah (supra)***. Once the arrest and subsequent remand are vitiated, the only consequence thereof is to grant bail to the accused.

7. Even otherwise on merit, the petitioner is alleged for opening up seven mule accounts in the name of different persons by using their credentials, but there is no allegation against the petitioner for committing any financial fraud and there is only revelation of receiving some commission of Rs.2,000/- and the main prayer in this case is some other co-accused persons, who have been handed over with the mule accounts to commit financial fraud. In the aforesaid situation and the pre-trial detention would definitely enure to the benefit of the petitioner for grant of bail. In the aforesaid factual scenario and failure of the arresting officer to comply the mandatory as well as statutory provision and keeping in



view the pre trial of the petitioner in custody, this Court without expressing any view on merits admits the petitioner to bail.

8. Hence, the bail application of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand) only with one solvent surety for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deems fit and proper by it.

9. Accordingly, the BLAPL stands disposed of. Issue urgent certified copy of the order as per Rules. A soft copy of this order be immediately communicated to the concerned Court, who shall afterwards communicate the same to the concerned Jail through e-mail for reference.

(G. Satapathy)
Judge

Signature Not Verified

Digitally Signed
Signed by: RANJEETA SAHOO
Reason: Authentication
Location: HIGH COURT OF ORISSA
Date: 08-May-2026 14:55:36

Orissa High Court, Cuttack,
Dated the 7th day of May, 2026/Ranjeeta