



IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.4124 of 2026

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

Sk. Mantaz @ Sk. Mamtaz ... ***Petitioner***

-versus-

State of Odisha ... ***Opposite Party***

For Petitioners : ***Mr. S.C. Sr. Advocate along
with Mr. S. Mohapatra,
Advocate***

For Opposite Party : ***Mr. R.B. Mishra, Addl. PP***

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING & DATE OF JUDGMENT:08.05.2026 (ORAL)

G. Satapathy, J.

1. This is a bail application U/S.483 of BNSS by the petitioners for grant of bail in connection with Bhubaneswar STF P.S. Case No.14 of 2020 corresponding to T.R. Case No.133 of 2020 pending in the file of 3rd learned Addl. Sessions Judge, Bhubaneswar, for commission of offences punishable under Sections 21(C)/29 of the NDPS Act, on the main allegation of possessing 405 Grams of Brown Sugar, along with co-accused persons.



2. In the course of hearing, Mr. Soura Chandra Mohapatra, learned Senior Counsel, who is being assisted by Mr. Satya Mohapatra, learned counsel for the Petitioner vehemently submits that the petitioner although has right to speedy trial, but the same not only has been infringed in view of his detention in custody since 12.07.2022, but also only 04 out of 24 charge sheeted witnesses have been examined till today and thereby, the trial is not likely to be concluded in near future. In support of his contention, learned counsel for the petitioner has relied upon the decision in ***Vaibhav Singh Vrs. State of Uttar Pradesh; 2026 LiveLaw (SC) 439*** and ***Mohd Muslim @ Hussain Vrs. State (NCT of Delhi); (2023) SCC OnLine SC 352***. On this submission, Mr. Mohapatra prays to grant bail to the petitioner.

2.1. On the other hand, Mr. R.B. Mishra, learned Addl. PP by harping on the criminal antecedents of the petitioner submits that not only the petitioner has failed to satisfy the conditions of Sec.37 of NDPS Act, but also



he being involved in number of cases, his bail application may kindly be rejected.

3. After having considered the rival submissions upon perusal of record, there appears allegation against the petitioner for possessing 405Grams of Brown Sugar along with co-accused persons, but the aforesaid quantity of Brown Sugar is definitely coming under commercial quantity. Besides, the petitioner has the following criminal antecedents:-

*(a) Jaleswar P.S. Case No.53(A) of 2010, U/s. **21(b) of NDPS Act**, corresponding to Spl.G.R. Case No.53 (A) of 2020, pending in the court of learned Sessions Judge-Cum-Special Judge, Balasore.*

*(b) Jaleswar P.S. Case No.276 of 2021, U/S. **21(c) and 29 of NDPS Act** corresponding to Spl.G.R. Case No.210 of 2021 pending in the court of learned Sessions Judge-Cum-Special Judge, Balasore.*

*(c) Jaleswar P.S. Case No.279 of 2021, U/s. **21(c) of NDPS Act**, corresponding to Spl.G.R. Case No.218 of 2021, pending in the court of learned Sessions Judge-Cum-Special Judge, Balasore.*

*(d) Jaleswar P.S. Case No.300 of 2021, U/s. **21(b) and 29 of NDPS Act**, corresponding to Spl.G.R. Case No. 240 of 2021, pending before the court of learned Sessions Judge-Cum-Special Judge, Balasore.*



(e) Jaleswar P.S. Case No.307 of 2021, U/s.**21(c) and 29 of NDPS Act**, corresponding to Special G.R.Case No. 245 of 2021, pending in the court of learned District Judge-Cum-Special Judge, Balasore.

(f) Talasar P.S.Case No.01 of 2011, U/s.**21(b) of NDPS Act**, corresponding to Spl.G.R. Case No. 07 of 2021, pending in the court of learned 1st Additional District Judge, Balasore.

What is most significant is that, although the petitioner knows about his criminal antecedent, but he has never disclosed his criminal antecedents in his bail application and the knowledge of the petitioner is attributable from the comprehensive affidavit filed by him in his earlier bail application in BLAPL No. 10025 of 2024. In this regard, this Court considers it apt to refer to the decision in ***Kaushal Singh Vrs. State of Rajasthan; 2025 INSC 871***, the Apex Court in paragraphs-22 and 23 has *inter-alia* held as under:-

"22. Before parting, we would like to state that, accounting for the criminal antecedents of the accused while considering the bail applications has been the subject matter of concern for Courts across the country. The rules and orders of the Punjab and Haryana High Court, to be specific, Rule 5 of Chapter 1-A(b) Volume-V specifically provide as below:

"5. Bail applications. - In every application for bail presented to the High



Court the petitioner shall state whether similar application has or has not been made to the Supreme Court, and if made shall state the result thereof. The petitioner/applicant shall also mention whether he/she is/was involved in any other criminal case or not. If yes, particulars and decisions thereof. An application which does not contain this information shall be placed before the bench with the necessary information."

23. We feel that every High Court in the country should consider incorporating a similar provision in the respective High Court Rules and/or Criminal Side Rules as it would impose an obligation on the accused to make disclosures regarding his/her involvement in any other criminal case(s) previously registered."

4. Further, in ***Zeba Khan Vrs. State of UP and others; 2026 SCC OnLine 188***, the Apex Court at paragraphs-42, 43, 47 & 48 has been pleased to hold as under:-

"42. It has been consistently emphasized by this Court that an accused or applicant seeking bail is under a solemn obligation to make a fair, complete and candid disclosure of all material facts having a direct bearing on the exercise of judicial discretion. **Any suppression, concealment or selective disclosure of such material facts amounts to an abuse of the process of law and strikes at the very root of the administration of criminal justice.**

43. In the present case, Respondent No. 2 deliberately concealed his criminal antecedents before the High Court, both in the petition for quashing FIR as well as in successive bail applications. Even before this Court, only partial



disclosure was made in the counter-affidavit, despite the existence of multiple criminal cases on record. **This conduct cannot be viewed as an isolated lapse but reflects a growing and disturbing trend of accused persons securing discretionary relief by suppressing material facts.**

47. As repeatedly observed by this Court, bail applications are examined at multiple stages - from the trial Court to the High Court and ultimately this Court - where courts are often constrained to take a prima facie view on incomplete or selectively presented records. **Non-disclosure of material aspects such as criminal antecedents, prior bail rejections, duration of custody, compliance with constitutional and statutory safeguards, and the progress of trial may result in the unwarranted grant of bail, or conversely, the prolonged incarceration of accused persons despite substantial custody having already been undergone.**

48. Thus, this Court is of the view that **every petitioner or applicant seeking bail, at any stage of proceedings, is under an obligation to disclose all material particulars, including criminal antecedents** and the existence of any coercive processes such as issuance of non-bailable warrants, declaration as a proclaimed offender, or similar proceedings, duly supported by an affidavit, so as to promote uniformity, transparency and integrity in bail adjudication."

5. Grant or refusal of bail to an accused for commission offence under NDPS Act involving commercial quantity is governed by Sec.37 of NDPS Act, which prescribes that no person accused of offence under NDPS Act involving commercial quantity shall be released on



bail, where the Public Prosecutor opposes such bail application; unless the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of the offence and he is unlikely to commit offence while on bail. Reverting back to apply the conditions of Sec.37 of NDPS Act to the facts of the present case, it appears that not only the petitioner is allegedly involved in this case, but also he is involved in **another six cases under NDPS Act**, out of which, **two cases are for commercial quantity**, but out of the twin conditions of Sec.37 of NDPS Act, the Court has to record satisfaction before granting bail to an accused that the accused is not likely to commit any offence while on bail, however, the existence of six criminal antecedents against the petitioner for commission of offences under NDPS Act itself is indicative of the petitioner not satisfying the aforesaid condition of Sec.37 of NDPS Act, which is *sine qua non* for grant of bail for commission of offence under NDPS Act involving commercial quantity.

6. It is, however, found that the petitioner is in custody since more than three and half years, but the



trial is yet to be concluded. This Court is also firmly in agreement that the right to speedy trial is the fundamental right of an accused, but in ***State of Punjab vrs. Sukhwinder Singh @ Gora; 2026 Live Law(SC) 421***, the Apex Court has held as under:-

"10. Xx xx xxx The right to speedy trial under Article 21 of the Constitution is undoubtedly a valuable constitutional guarantee; but in the context of a special statute such as the NDPS Act dealing with commercial quantity, that right has to be read alongside, and not in displacement of the mandate of Sec.37 of NDPS Act."

The petitioner has undoubtedly relied upon the cases in ***Vaibhav Singh (supra)*** and ***Mohd Muslim @ Hussain (supra)***, but in ***Vaibhav Singh (supra)***, the petitioner-accused even being in custody for around nine years was facing trial as Under Trial Prisoner for offences under IPC, wherein there is no stipulation like Sec.37 of NDPS Act, however, in ***Mohd Muslim @ Hussain (supra)*** the accused was, however, facing trial under NDPS Act for commercial quantity, but he had already suffered incarceration for over 07 years, however, the facts therein does not disclose any criminal antecedent against the accused therein for similar nature, whereas in



the present case, the petitioner is having six criminal antecedents under NDPS Act. Besides, the petitioner herein has not disclosed his criminal antecedents in his bail application even knowing the same.

7. Additionally, in ***Narcotic Control Bureau Vrs. Mohit Agarwal; (2022) 18 SCC 374***, a three judge Bench of the Apex Court has held as under:-

"The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the NDPS Act."

Besides, in ***Narcotic Control Bureau Vrs. Kashif; 2024 SCC Online SC 3848***, the Apex Court has also made it clear that for release of Petitioner accused of offences under NDPS Act involving in commercial quantity, recording of satisfaction of conditions of Sec. 37 of NDPS Act is *sine-qua-non*. The relevant observation of the Apex Court in ***Kashif (supra)*** is extracted as under:-

"8. There has been consistent and persistent view of this Court that in the NDPS cases, where the offence is punishable with minimum sentence of ten years, the accused shall



*generally be not released on bail. **Negation of bail is the rule and its grant is an exception.** While considering the application for bail, the court has to bear in mind the provisions of **Section 37 of the NDPS Act, which are mandatory in nature. The recording of finding as mandated in Section 37 is a sine qua non for granting bail to the accused involved in the offences under the said Act.** Apart from the granting opportunity of hearing to the Public Prosecutor, the other two conditions i.e., **(i) the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that (ii) he is not likely to commit any offence while on bail,** are the cumulative and not alternative conditions."*

8. On a careful conspectus of materials placed on record together with the discussion made hereinabove keeping in view the six criminal antecedents of the petitioner for commission of offence under NDPS Act, this Court does not find the petitioner to have satisfied the conditions of Sec.37 of NDPS Act. In view of the above facts and taking into consideration the nature and gravity of the offence as alleged against the petitioner vis-a-vis the accusations sought to be brought against him and regard being had to the materials placed on record



keeping in view the criminal proclivity of the petitioner together with non-disclosure of his criminal antecedents in this bail application and taking into account the failure of the petitioner to satisfy the conditions of Sec.37 of NDPS Act, which is *sine qua non* for grant of bail for commission of offence under NDPS Act involving commercial quantity, this Court is not inclined to grant bail to the petitioner.

Hence, the bail applications of the Petitioner stand rejected. The learned trial Court is, however, sincerely requested to expedite the trial, if there is no other legal impediment.

9. Accordingly, the bail application stands disposed of. A soft copy of this order be immediately transmitted to the Court in seisin over the matter for reference.

(G. Satapathy)
Judge

Orissa High Court, Cuttack,
Dated the 8th day of May, 2026/S.Sasmal

Signature Not Verified

Digitally Signed
Signed by: SUBHASHMITA SASMAL
Designation: Jr. Stenographer
Reason: Authentication
Location: High Court of Orissa
Date: 09-May-2026 14:13:33

