



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLA Nos.517, 584, 596, 597, 801, 1075 of 2025
(An appeal U/S.14(A) of the SC & ST (POA) Act r/w
Sec.483 of BNSS).

Abhimanyu Mishra
(In CRLA No.517 of 2025)
Aniket Mishra
(In CRLA No.584 of 2025)
Subham Sharma
(In CRLA No.596 of 2025)
Varun Bhati @ Barun Bhati
(In CRLA No.597 of 2025)
Siddhant Sharma
(In CRLA No.801 of 2025)
Akash Poddar and another
(In CRLA No.1075 of 2025)

... Appellants

Mr. D.P. Dhal, Sr. Advocate
along with Mr. A. Pradhan, Advocate
(in CRLA Nos.517, 584, 596, 597 & 801 of 2025)
Mr. D. Nayak, Sr. Advocate
along with Ms. A. Mishra, Advocate
(in CRLA No.1075 of 2025)

-versus-

State of Orissa and another ... Respondents

Mr. S.C. Pradhan, Addl. PP
Mr. S.K. Jena, Advocate along with
Mr. D.R. Parida, Advocate for the informant
(in all these CRLAs)

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:06.07.2026(ORAL)

G. Satapathy, J.

1. These criminal appeals U/S.14(A) of the SC
& ST (POA) Act r/w Sec.483 of 14-A(2) of the

CRLA Nos.517 of 2025 & other cases

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Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989 together with amendment Act, 2016 (in short, "the Act") in nature of bail are directed against the impugned order dated 11.04.2025/10.07.2025 passed in Spl. GR Case No.40 of 2024 & 40/2 of 2024-2025 by which the learned 2nd Addl. Sessions Judge, Samalpur has refused to grant bail to the appellants in connection with Khetrarajpur PS Case No.247 of 2024 for commission of offences punishable under Sections 115(2)/ 126(2)/ 296/ 109(1)/ 191(2)(3)/ 103(1)/ 190 of BNS r/w Sec.3(1)(r)/3(1)(s)/3(2)(va) of the Act, on the main allegation of rioting being armed with lethal weapons, such as stump, brick bat & wooden batten and indiscriminately assaulting the deceased Badal Tandi and other five injured persons namely Pramod Mahananda, Rahul Mahananda, Pintu Singh, Niranjana Deep and Rahul Mugri in prosecution of their common object by taking advantage of their caste owing to a dispute of throwing of fire-crackers towards the mother of the appellant Subham Sharma.



2. In the course of hearing, Mr. Debi Prasad Dhal, learned Sr. counsel who is being assisted by Mr. Abhishek Pradhan, learned counsel for the appellants submits that the transaction depicts a case of assault and counter assault relating to throwing of fire-crackers, but the deceased and injured persons were the aggressors, which is evident from the appellants suffering injuries on their persons in the transaction. It is further submitted by Mr. Dhal that the arresting officer while affecting arrest has failed to comply the provision of Sec.47 of BNSS r/w Art.22(1) of the Constitution of India which is evident from the arrest memos of the appellants as the same do not contain a single word with regard to furnishing of grounds of arrest to the appellants. Mr. Dhal, further submits that the name of the appellants does not figure out in the FIR which contains only the name of the priest of Vaishno Devi temple and some others, but the appellants have been subsequently implicated in this case and the deceased had suffered death subsequently while undergoing treatment and thereby, no case U/S.



103 of BNS is attracted in this case. It is further submitted that the appellants are in custody since 03.11.2024 and although the charge-sheet has been submitted, but trial is yet to commence and keeping a person in confinement without trial would definitely amounts to deprivation of personal liberty. Accordingly, Mr. Dhal prays to grant bail to the appellants.

2.1. Mr. Dharanidhar Nayak, learned Sr. counsel who is being assisted by Ms. Anwesha Mishra, learned counsel for the appellant in CRLA No.1075 of 2025 submits that even for a moment taking into account the prosecution case, it is not a case of U/S.103 of BNS since there was assault and counter assault for a petty dispute and the appellants, the deceased and the injured persons were celebrating Deepavali by exploding fire-crackers and in the course of such transaction, one of the fire-cracker hits to the mother of the one of the injured-appellant Subham Sharma and thereby, there was scuffle and the assault and counter assault not being by any weapon of offence, but by cricket stump, brick bat and batten, and



this shows that there was neither any pre-meditation nor any prior planning for assaulting the deceased & injured persons and by no stretch of imagination, the case against the appellants be considered for offence U/S.103 of IPC. It is also brought to the notice of the Court that the appellants have sustained certain injuries on their person. On these submissions, Mr. Nayak, prays to grant bail to the appellants.

2.2. On the contrary, Mr. S.C. Pradhan, learned Addl. PP by placing the statements of injured witnesses submits that not only the appellants have attacked the deceased and injured persons, but also they have attacked them brutally and the brutality demonstrated by them itself is a ground to reject the bail applications of the appellants. Mr. Pradhan, further submits that since the trial is yet to commence and the appellants have the potential to influence the witnesses, the bail application of the appellants may kindly be rejected by dismissing these criminal appeals.

2.3. In addition, Mr. Sarat Kumar Jena, learned counsel appearing on behalf of the informant, injured



Pramod Mahananda, Pintu Singh and wife of the deceased Badal Tandi and representing Mr. Deepak Ranjan Parida, learned counsel for the rest of the injured persons; submits that this Court by way of an order passed on 24.03.2025 in CRLA No.1310 of 2024 has refused bail to one of the co-accused Akash Poddar on the ground that trial is yet to commence and the appellants has got a potential to influence the witnesses and the appellants having been found on materials on record for assaulting the deceased and injured persons, their bail applications may not be considered favorably. Mr. Jena further submits that there are enough materials against the appellants to refuse bail to them since the appellants have not only attacked the deceased, but also the injured persons and they having attacked them with batten (wooden cudgel) and cricket stumps have caused death to the deceased as well as inflicted injuries to other injured persons and trial having not yet commenced, there is every possibility that the appellants may influence the trial by gaining over the injured and witnesses and, therefore, the bail



applications of the appellants may kindly be rejected by dismissing these criminal appeals.

3. After having considered the rival submissions upon perusal of record, it appears that FIR has been registered against the priest of Vaishno Devi Temple, Sambalpur and four others, but the appellants have been implicated in this case on the basis of materials collected during the investigation, however, the FIR was lodged on 02.11.2024 for the incident occurring at 10.30AM on 01.11.2024, but the materials on record disclose that the deceased as injured was taken into hospital immediately after the occurrence, but he subsequently died after some days while undergoing treatment, whereas not only Pramod Mahananda, Rahul Mahananda, Pintu Singh, Niranjana Deep and Rahul Mugri from the side of the informant had sustained injuries, but also the appellants Abhimanyu Mishra, Aniket Mishra, Siddhant Sharma, Akash Poddar and two to three others have sustained injuries on their persons. The materials on record disclose attack on the deceased & injured persons by



means of stick, wicket stump, kick and fist blows. On this incident, not only the present FIR has been registered, but also a counter case has been lodged against the informant side by the appellants side on 02.11.2024 in Khetrarajpur PS Case No.251 of 2024. The appellants are in judicial custody since 03.11.2024, but even after submission of charge-sheet, the trial is yet to commence and the appellants have already suffered incarceration period for just little more than one and half years.

4. Furthermore, the PM report of the deceased discloses three external wounds, such as (i) one stapled wound surgically made having 56 numbers of metal pins over the head between frontal region going over the vertex then over the right occipital area up to the right temporal region, (ii) stitched wound having one stitch present on upper lip and (iii) stitched wound having one stitch present on mid of fronto parietal area of head. The PM report of the deceased also discloses one external injury of abraded contusion of size 3cm X 3cm with black colour dry partially fallen



off scab present on left temporal area 4cm above left ear pinna and the external wound no. (i) to (iii) are opined to be caused as a result of surgical procedure as a part of treatment procedure. It is further opined in the PM report that the external injury (i) and internal injuries could be due to hard and blunt force and contact with rough surface or object collectively fatal in ordinary course. The final opinion as to cause of death of the deceased has been opined to be due to head injury and complications and the external injury no.(i) is suggestive of 1 to 2 weeks old prior to death.

5. In addition, the materials on record do not disclose anything to suggest that the incident took place with pre-meditation or prior planning, rather it was a circumstance of transaction on the spur of moment, however, one innocent person has lost his life and some others suffered injury. Besides, grant of bail to an accused should not be confused with his acquittal since grant of bail is a transfer of the custody of the accused from law to surety and the persons charged with crime, if not having any past criminal history or he



being not a flight risk, bail can still be granted to him, even though there is a prima facie case, if the situation so demands. In this case, neither the prosecution nor the informant or injured has brought to the notice of the Court that any of the appellant is having any criminal antecedent nor the prosecution has brought any materials on record to suggest that the appellants would pose flight risk, if released on bail. The apprehension of the informant and the injured persons for influencing the witnesses by the appellants can be curbed by imposing appropriate conditions. Right to speedy trial is also a fundamental right, but such right must be balanced with the accusations inasmuch as a person can be kept in confinement in accordance with the law, which advocates and prescribes the right to liberty and it is stated in Article 21 that no person shall be deprived of his life or liberty except according to the procedure establish by the law and, therefore, keeping a person in confinement on a criminal charge cannot be considered as a deprivation of liberty, but when the liberty is curtailed for a long time without assurance of



trial, it would definitely amount to deprivation of liberty.

6. In this case, the appellants have also taken the plea of non-compliance of Sec.47 of BNSS as a ground for grant of bail and accordingly, the response of the Arresting Officer was sought for by this Court and the SDPO, Sambalpur has filed two affidavits since one affidavit was found deficient for the queries of the Court because in the first affidavit, the SDPO has not responded to all the queries of the Court, however, on careful perusal of the second affidavit dated 17.12.2025 as sworn in by the SDPO, it reveals that the SI, Sanjay Kumar Sahoo while arresting the accused persons have informed the accused persons about the allegation made in the FIR and the statement of complainant recorded U/S.161 of CrPC and the accused persons being fully aware about the reasons/grounds of arrest have put their signatures in the arrest memo respectively. Similarly, in the first affidavit, the said SDPO has simply stated that the accused persons have been arrested by the previous SI Sanjay Kumar Sahoo



on 03.11.2024 at 11.30AM after informing them the grounds of arrest by obtaining their signatures on the memo of arrest and Court surrender memo in the presence of the witnesses. Neither in the first affidavit nor in the second affidavit, the SDPO has annexed any document to evidence that the grounds of arrest has been communicated to the appellants, but the arrest memos produced by the appellants itself disclose that it is a printed template format, but no grounds of arrest there has been enumerated at paragraph-8 of such arrest memos and it has been stated therein that the arrested person after being informed about the grounds of arrest and his legal rights was duly taken into custody, but there was no mention of any grounds of arrest in the arrest memos. No doubt the arrest memo contains the signature of the arrested person as well as arresting officer, but the mode and manner of communication of the grounds of arrest has not been disclosed either in the affidavits or in the arrest memos. Further, the affidavits also do not disclose the mode and manner of communication of the grounds of arrest.



What has been communicated and how it has been communicated has not been stated either in the affidavits or in the arrest memos, but law cast a constitutional duty on the arresting officer to inform the arrestee the grounds of arrest. It is also true that in a very recent judgment in ***Mihir Rajesh Shah Vrs. State of Maharashtra; (2026) 1 SCC 500***, the Apex Court has made certain guidelines and one of such guidelines is communication of grounds of arrest in writing to the arrestee in the language he/she understands and such communication, if not possible immediately after the arrest, it must be within two hours prior to production of such accused before the magistrate. It is also made further clear therein that the written communication of grounds of arrest in the language the arrestee understands would govern the arrest prospectively, but this Court is of the considered opinion that total non-compliance of the provision of Sec.47 of BNSS is impermissible inasmuch as the same is made mandatory in Art.22(1) of the Constitution of India.



7. In view of the aforesaid facts and circumstances and taking into account the nature and gravity of the offences as alleged against the appellants vis-à-vis the accusations sought to be brought against them and keeping in view the stage of the case and the trial having not yet commenced, even after submission of charge-sheet and taking into account the pre-trial detention of the appellants in custody and even if the appellants stated to have been communicated the grounds of arrest orally, but the affidavits of the SDPO do not reveal any such thing, this Court without expressing any view on merits of the case considers it proper to admit each of the appellants to bail, but subject to certain conditions.

8. Hence, the CRLAs stand allowed and the impugned orders are hereby set aside. Consequently, the appellants are directed to be released on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand) each 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 deem fit and proper by it with following conditions: -

(i) the appellants shall not contact the informant and the injured persons and their family members;

(ii) the appellants shall not threaten/ influence/ induce/ terrorize/ coerce any of the witnesses including the informant and her family members acquainted with the facts of the case so as to dissuade them disclosing such facts before the Court.

(ii) the appellants shall not leave the country without prior permission of the trial Court.

(iii) In case the appellants misuse the liberty of bail and in order to secure their presence, proclamation U/S.84 of BNSS is issued and the appellants fail to appear before the Court on the date fixed in such proclamation, then, the learned trial Court is at liberty to initiate proceeding against them for offence U/S.209 of BNS in accordance with law;

(iv) the appellants shall report attendance before the jurisdictional Police Station once in a fortnight preferably on a 2nd Sunday in each month in between 10 A.M. to 12 Noon for six (06) months from the actual date of release from the custody.

The I.I.C. of Jurisdictional Police Station shall not detain the appellants unnecessarily after recording their attendance beyond the time as stipulated.



9. Accordingly, all these CRLAs stand disposed of. A copy of this order be immediately communicated to the concerned Court.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 06th day of July, 2026/Jayakrushna*