



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.2545 of 2025

Nilamani Bilas

.....

Petitioner

Represented By Adv. -
Asutosh Tripathy

-versus-

State Of Odisha

.....

Opposite Party

Represented By Adv. -
Mr. C.M.Singh, A.S.C.

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA

ORDER
13.08.2025

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner. Perused the application as well as prayer made therein.
3. By filling the present application under Section 482 Cr.P.C. the Petitioner seeks invoke the inherent jurisdiction of this Court to quash order dated 23.06.2025 passed by the learned J.M.F.C., Banarpal in 1.C.C. Case No.04 of 2024.
4. Learned counsel for the Petitioner at the outset contended that the present application arises out of a proceeding under Section 138 of the NI Act. He further submitted that at the stage of 274 of the B.N.S.S. i.e. at the stage where the substances accusation is to be informed to the accused in a summons case, the Petitioner file an application seeking exemption of his personal appearance. The



learned trial court vide order dated 23.06.2025 has rejected the prayer for such exemption on the ground that to follow the procedure prescribed in Section 274 of the B.N.S.S. the appearance of the accused is mandatory. Learned counsel for the Petitioner further contended that since the case is a summons case the appearance of the accused is not mandatory at that stage and that the accused may be permitted to be represented by his lawyer for compliance of the procedure prescribed in Section 274 of B.N.S.S. On such ground, learned counsel for the petitioner contended that the learned trial court has committed an illegality in rejecting the application vide impugned order dated 23.06.2025.

5. On a careful analysis the provisions contained in Section 274 B.N.S.S. it appears that in trials of summon cases the learned Magistrate is required to state substance of the accusation to the accused and the accused shall be asked as to whether he pleads guilty or he has any defence to make. The procedure prescribed in 274 of B.N.S.S. is a mandatory procedure for which the presence of the accused is mandatory. Although, law is well settled that the personal appearance of the accused can be dispensed with under Section 205 Cr.P.C., which corresponds to 228 of the B.N.S.S., for the rest of the trial. Keeping in view the fact that cases involving offences under Section 138 of the NI act are based on documentary evidence as has been held by this Court in ***Debasis Samantaray vs. State of Odisha and another, reported in (2003) 25 OCR- 59***. However, for the purpose of 274, the learned Magistrate could not have dispensed with the personal appearance of the accused. In view of the aforesaid analysis, this Court is of the considered view that the learned Magistrate has not committed any illegality in rejecting the



application of the accused-petitioner for dispensing with the personal appearance of the accused. Accordingly, the order dated 23.06.2025 calls for no interference.

6. Further taking into consideration the difficulty of the petitioner that he is staying in Assam and as such he needs some time to appear before the learned trial court, this Court grants liberty to the petitioner to move an application for the learned Magistrate praying for some time to appear in person before the learned trial court for compliance of the procedure mentioned in Section 274 of B.N.S.S. In such eventuality, the learned trial court shall consider the same keeping in view the difficulty of the Petitioner and grant her reasonable time for such appearance before the learned trial court.

7. With the aforesaid observations, directions, the CRLMC stands disposed of.

(A.K. Mohapatra)
Judge

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Signature Not Verified

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Signed by: RUBI BEHERA
Reason: Authentication
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