



A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2182 of 2026

CNR No- ODHC010510902026

(In the matter of an application under Section 482 of the Code of Criminal Procedure corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023)

Rama Chandra Patra

....

Petitioner(s)

-versus-

State of Odisha (VIG)

....

Opposite Party (s)

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s)

:

Mr. Amit Prasad Bose, Adv.

Mr. Amit Kumar Das, Adv.

For Opposite Party(s)

:

Mr. Niranjana Moharana, ASC

(for Vig. Deptt.)

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-09.07.2026

DATE OF JUDGMENT:-31.07.2026

Dr. Sanjeeb K Panigrahi, J.

1. In this petition, the petitioner seeks a direction from this Court to quash the order dated 24.06.2026 passed by the learned Special Judge (Vigilance), Jeypore in G.R. Case No.14 of 2014 and recall the non-bailable warrant issued against him.

I. FACTUAL MATRIX OF THE CASE:

2. The petitioner, Rama Chandra Patra, is one of the accused persons in G.R. Case No. 14 of 2014, arising out of Koraput Vigilance P.S. Case No. 32 of 2014 and pending before the Special Judge (Vigilance),



Koraput at Jeypore. He is described as a former Nazir in the office of the Tahasildar, Rayagada. Another accused, Brahmananda Dalai, is also facing prosecution in the same case.

3. The petitioner's application for discharge was rejected by the trial court. He challenged that rejection before the High Court in a proceeding which was subsequently registered as CRLREV No.488 of 2024. On 28.08.2024, the High Court passed an interim order concerning the petitioner's appearance before the trial court and his entitlement to seek exemption from personal appearance under Section 317 Cr.P.C.
4. According to the petitioner, the Criminal Revision was listed before the High Court on several occasions but could not be taken up due to paucity of time. Consequently, the interim protection was not extended. The petitioner relies on the list of business of the High Court to explain the circumstances in which the interim order ceased to remain current.
5. On 24.06.2026, the case was listed before the Special Judge for consideration of charge. Brahmananda Dalai and his advocate were present, while the petitioner was absent. The petitioner's advocate filed one application under Section 317 Cr.P.C. seeking exemption from personal appearance and another application seeking adjournment, stating that the petitioner was undergoing medical examination or treatment at Visakhapatnam on account of chest pain.
6. By Order No. 118 dated 24.06.2026, the Special Judge rejected both applications on the ground that the prayers were not substantiated.



The court issued a non-bailable warrant against the petitioner, directed issuance of notice to his bailor and separated the proceeding against him so that the trial against Brahmananda Dalai would not be delayed. A separate split-up record was directed to be prepared, while the original case was taken up for consideration of charge against Brahmananda Dalai.

7. The petitioner has filed the present CRLMC under Section 482 Cr.P.C. seeking quashing of the order dated 24.06.2026 and recall of the non-bailable warrant issued against him. The pending Criminal Revision concerning rejection of his discharge application remains a separate proceeding before the High Court..

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

8. Learned counsel for the Petitioner earnestly made the following submissions in support of his contentions, as borne out from the Written Note of Submissions:
 - i) The petitioner contends that the High Court, by its order dated 28.08.2024, had permitted him to seek exemption from personal appearance under Section 317 Cr.P.C. and to be represented through his advocate. He maintains that the application filed on 24.06.2026 ought to have been considered in the light of that order and that the trial court was not justified in rejecting it and immediately issuing a non-bailable warrant.
 - ii) It is asserted that the petitioner's absence on 24.06.2026 was neither deliberate nor intended to obstruct the proceeding. He



was allegedly suffering from health problems and had travelled to Visakhapatnam for medical examination or treatment. His advocate was present before the trial court and filed applications both for exemption from personal appearance and for adjournment, thereby explaining his absence and demonstrating his intention to continue participating in the proceeding.

- iii) The petitioner submits that his Criminal Revision challenging rejection of the discharge application was repeatedly listed before the High Court but could not be taken up due to paucity of time. According to him, the failure to obtain an extension of the interim order was therefore attributable to the matter not being reached and not to any default on his part. The trial court ought to have considered these circumstances before taking coercive steps.
- iv) Relying upon *Satender Kumar Antil v. CBI*¹, the petitioner contends that a non-bailable warrant should not be issued routinely and that the presence of an accused should ordinarily be secured through progressively coercive measures. He relies upon the stated sequence of ordinary summons, followed by a bailable warrant in case of non-appearance, and a non-bailable warrant only where the accused intentionally continues to evade the proceeding.

¹ (2021) 10 SCC 773



- v) The petitioner argues that the order dated 24.06.2026 does not establish any deliberate or persistent failure on his part to appear before the trial court. He therefore characterises the direct issuance of a non-bailable warrant, despite representation through counsel and an explanation for his absence, as excessive and contrary to the principles governing use of coercive process.
- vi) It is further contended that the pending Criminal Revision raises a substantial challenge to the petitioner's continued prosecution and that coercive action during its pendency would cause serious prejudice. On that basis, he seeks quashing of the order dated 24.06.2026 and recall of the non-bailable warrant issued against him.

III. ANALYSIS OF THE ORDER OF THE COURT BELOW:

9. Learned Special Judge (Vigilance), Jeypore made the following observations:
 - i) The order dated 24.06.2026 records the essential procedural circumstances prevailing before the Special Judge. The prosecution was represented by the learned Special Public Prosecutor, co-accused Brahmananda Dalai and his advocate were present, and the petitioner was absent despite the matter being listed for consideration of charge. It also records that the petitioner's advocate filed separate applications under Section 317 Cr.P.C. and for adjournment.



- ii) The stated basis for rejecting both applications is that the grounds on which the prayers were made were “not substantiated.” The order, however, does not elaborate upon what supporting material was produced, whether any medical document accompanied the applications, or why the explanation regarding treatment at Visakhapatnam was considered insufficient. The conclusion is recorded, but the factual assessment underlying that conclusion is not set out in detail.
- iii) The order does not expressly refer to the High Court’s order dated 28.08.2024 or discuss its effect upon the petitioner’s application under Section 317 Cr.P.C. It also does not indicate whether the earlier High Court order was brought to the notice of the Special Judge on 24.06.2026. Consequently, from the reproduced order alone, it cannot be determined whether that order was considered and found inapplicable or was not considered at all.
- iv) After rejecting the applications, the Special Judge issued a non-bailable warrant against the petitioner and notice to his bailor. The order does not record whether any summons or bailable warrant had previously been issued and disobeyed, whether the petitioner had remained absent on earlier dates, or whether his absence was considered deliberate. The order therefore discloses the immediate procedural default but does not provide the petitioner’s broader history of appearance or non-appearance.



- v) The direction to split up the proceeding is supported by a distinct reason. The Special Judge recorded that continuation of the joint proceeding would cause inconvenience to the co-accused and delay commencement of the trial. The separation of the petitioner's case was therefore intended to permit the proceeding against Brahmananda Dalai to continue without being held up by the petitioner's absence.
- vi) The subsequent order concerning Brahmananda Dalai demonstrates that the trial court proceeded to hear the matter on charge, discharged him from the offences under Sections 420, 468 and 471 IPC, and framed charges under Section 13(1)(c) read with Section 13(2) of the Prevention of Corruption Act and Section 409 IPC. That part of the order concerns the merits of the prosecution against Brahmananda Dalai and is separate from the correctness of the NBW issued against the petitioner.

IV. THIS COURT'S REASONING AND ANALYSIS:

- 10. Heard Learned Counsel for the Parties and perused the documents placed before this Court.
- 11. Upon consideration of the rival submissions and the materials on record, this Court finds that the impugned order cannot be sustained in its present form. Section 317 Cr.P.C. empowers the trial court to dispense with the personal attendance of an accused where such attendance is not necessary in the interests of justice and the accused is represented by counsel. On 24.06.2026, the petitioner was represented by his advocate, who filed applications seeking



exemption from personal appearance and adjournment on the ground that the petitioner was undergoing medical examination or treatment at Visakhapatnam for chest pain.

12. The learned Special Judge rejected both applications merely by observing that the grounds were not substantiated and immediately directed issuance of a non-bailable warrant. The order does not indicate whether any medical document was produced or why the explanation offered was found unacceptable. It also does not refer to the earlier order dated 28.08.2024 passed by this Court, which permitted the petitioner to seek exemption under Section 317 Cr.P.C. and to be represented through counsel.
13. More importantly, the impugned order does not record any previous instance of deliberate non-appearance or evasion of the proceeding by the petitioner. There is also nothing to show that a summons or bailable warrant had proved ineffective in securing his attendance. In the absence of such circumstances, the immediate resort to a non-bailable warrant was disproportionate. The order thus reflects neither adequate consideration of the explanation offered nor the application of mind required before adopting a coercive measure affecting the liberty of the petitioner.
14. The governing principles may now be stated. A non-bailable warrant directly affects the liberty of an individual and cannot be issued as a matter of course. In *Inder Mohan Goswami v. State of Uttaranchal*² the Supreme Court held that such warrant should be

²(2007) 12 SCC 1



issued only where the Court has reason to believe that summons or a bailable warrant would not secure the presence of the accused. The Court further observed that summons should ordinarily be issued in the first instance, followed by a bailable warrant if the accused avoids the process. Resort to a non-bailable warrant is justified only where the Court is satisfied that the accused is deliberately evading the proceeding. The relevant excerpts are produced below:

“Before parting with this appeal, we would like to discuss an issue which is of great public importance, i.e., how and when warrants should be issued by the Court? It has come to our notice that in many cases that bailable and non-bailable warrants are issued casually and mechanically. In the instant case, the court without properly comprehending the nature of controversy involved and without exhausting the available remedies issued non-bailable warrants.

....

When non-bailable warrants should be issued Non-bailable warrant should be issued to bring a person to court when summons of bailable warrants would be unlikely to have the desired result. This could be when:

** it is reasonable to believe that the person will not voluntarily appear in court; or * the police authorities are unable to find the person to serve him with a summon;*

*or * it is considered that the person could harm someone if not placed into custody immediately.*

As far as possible, if the court is of the opinion that a summon will suffice in getting the appearance of the accused in the court, the summon or the bailable warrants should be preferred. The warrants either bailable or non-



bailable should never be issued without proper scrutiny of facts and complete application of mind, due to the extremely serious consequences and ramifications which ensue on issuance of warrants. The court must very carefully examine whether the Criminal Complaint or FIR has not been filed with an oblique motive."

15. The same principle was reiterated in *Sharif Ahmed v. State of Uttar Pradesh*³, where the Supreme Court cautioned that a non-bailable warrant cannot be issued routinely and that personal liberty should not be curtailed unless required by the larger interests of the public and the State. The Court also observed that the power to dispense with the personal attendance of an accused should be exercised liberally where the facts justify such exemption.
16. In the present case, the petitioner was represented by counsel, who placed an explanation for his absence before the trial court. The learned Special Judge was therefore required to examine that explanation and determine whether the petitioner had deliberately avoided the proceeding. In the absence of any such finding, or any indication that lesser measures had previously failed, the immediate issuance of a non-bailable warrant was not warranted.
17. The petitioner's absence on 24.06.2026 was not accompanied by any finding that he had deliberately avoided the proceeding. His counsel was present and filed applications under Section 317 Cr.P.C. and for adjournment, explaining that the petitioner was undergoing medical examination or treatment at Visakhapatnam. The learned Special Judge rejected the applications as not substantiated, but did not

³2024 INSC 363



indicate what material had been produced, why the explanation was unacceptable, or whether the petitioner had previously remained absent despite directions to appear.

18. The order also does not disclose that any summons or bailable warrant had earlier failed to secure the petitioner's presence. In the absence of a history of repeated default or any finding of intentional evasion, the immediate issuance of a non-bailable warrant was disproportionate. The expression that the applications were not substantiated, without any further discussion, does not reflect the scrutiny required before adopting a measure that directly affects personal liberty. The reasons recorded were also insufficient for a proper exercise of jurisdiction under Section 317 Cr.P.C.
19. The pendency of the Criminal Revision challenging the rejection of the petitioner's discharge application does not, by itself, excuse his absence before the trial court. It nevertheless forms part of the surrounding circumstances and shows that the petitioner was pursuing a remedy arising from the same prosecution. His absence on the relevant date must therefore be considered together with his representation through counsel and the medical explanation placed before the court. There is no material on record from which an intention to obstruct or evade the proceeding may reasonably be inferred.
20. The learned Special Judge was justified in ensuring that the proceeding against the co-accused was not delayed. The direction to split up the case and proceed against Brahmananda Dalai served that



purpose and does not call for interference. That consideration, however, did not require the simultaneous issuance of a non-bailable warrant against the petitioner without first determining whether a less coercive measure would secure his appearance.

21. The principles stated in *Satender Kumar Antil*(supra), though considered primarily in the context of arrest and bail, reaffirm that restrictions upon liberty must be necessary and proportionate. Read with the law governing the issuance of warrants, they require courts to adopt coercive measures with restraint and only to the extent needed to secure the accused's participation in the proceeding.
22. This Court is therefore satisfied that the direction issuing the non-bailable warrant cannot be sustained. The present case does not disclose wilful defiance of the trial court. The petitioner had placed an explanation through counsel, and the impugned order neither adequately examined that explanation nor recorded circumstances warranting immediate recourse to the most coercive process. The interests of justice would accordingly be served by recalling the warrant while requiring the petitioner to appear before the trial court within a fixed period and participate in the proceeding in accordance with law.

V. CONCLUSION:

23. Accordingly, the CRLMC is allowed to the extent indicated. The order dated 24.06.2026 passed by the learned Special Judge (Vigilance), Jeypore in G.R. Case No.14 of 2014 is set aside insofar as it directs



issuance of a non-bailable warrant against the petitioner. The warrant stands recalled.

24.If the petitioner has been taken into custody solely in execution of the said warrant, he shall be released forthwith, subject to the bail bond already furnished by him, which shall continue to remain in force. The petitioner shall appear before the learned trial court on the next date fixed and shall thereafter participate in the proceeding in accordance with its directions. Any application for exemption from personal appearance filed by him shall be considered on its own merits and in accordance with law.

25.The learned trial court shall proceed with the case expeditiously. The direction to split up the proceeding against the petitioner is left undisturbed. It is clarified that no observation made in this order shall affect the merits of CRLREV No.488 of 2024 or prejudice either party therein.

26.Interim order, if any, passed earlier stands vacated.

(Dr.SanjeebK Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 31st July, 2026/-