



IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11077 of 2025

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

***Yaya Khan @ Mohammad ...
Yousuf***

Petitioner

-versus-

State of Odisha

...

Opposite Party

For Petitioner : Mr. J.S. Samal, Advocate

For Opposite Party : Mr. C. Mohanty, Addl. PP

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING & DATE OF JUDGMENT: 23.03.2026 (ORAL)

G. Satapathy, J.

1. This is the bail application U/S.483 of the BNSS by the petitioner for grant of bail in connection with Airport P.S. Case No.192 of 2025 corresponding to C.T. Case No.1043 of 2025 pending in the Court of learned JMFC (Cog. Taking-V), Bhubaneswar, for commission of offence punishable U/Ss.338/339/340/336(2) of BNS r/w.Sec.12/14/14-A of Foreigners Act.

2. As per the allegation, the petitioner, who was detained at the Bhubaneswar, Airport after his arrival from Dubai in Flight No.6E-1448, was found upon



immigration verification to be an Afgan National having Afgan passport No. 0247655 and his original name to be Mohammad Yusuf, however, the passport/document shown by him discloses him to be Yaya Khan, S/o- Moti Khan, DOB- 20.05.1971, PP No. U1380251 with address Peyton Sahi, Buxibazar, Cuttack-753001, Odisha which is found to be false and he had allegedly been staying in India with forged and fabricated documents since 25.10.2018. On this fact, FIR was lodged and the petitioner was taken into custody landing him before this Court in this bail application.

3. Heard Mr. Jeet Swarup Samal, learned counsel for the petitioner and Mr. C. Mohanty, learned Addl. PP in the matter and perused the record.

4. After having considered the rival submissions upon perusal of record, there appears allegation against the petitioner that he is an Afgan National and he by deliberate concealment of his original identity as Mohammad Yousaf is un-authorizedly staying in India by describing himself as Yaya Khan, a resident of Peyton Sahi, Cuttack with allegedly fake and forged passport.



Besides, it is stated in the FIR that the petitioner was allegedly found with Aadhaar Card, PAN Card, Driving License and certificate of Registration of Motor Cycle No. OD-05-AV-3286 at the time of his detention at Airport and all these documents are in the name of Yaya Khan.

5. In the circumstance, the allegations raised against the petitioner are not only limited to a mere technical violation of immigration norms, but also indicate a case of deliberate concealment of identity and creating forged documents to obtain benefit of Indian citizenship to stay in India, however, the law makes a clear distinction between the lawful citizens and illegal migrants, but persons falling in the category of illegal migrants are prohibited to stay/reside in India without valid passport and visa. There is in fact allegation against a person like the petitioner in this case for forging passport, which is evident from the reply from Foreigners Regional Registration Office, Bureau of Immigration, Hyderabad vide its office letter dated 18.09.2025 that the passport No.U1380251 and passport No.02457655 belongs to same person i.e. Yaya



Khan @ Mohammad Yousaf and both Yaya Khan @ Mohammad Yousaf are single individual and the accused petitioner had arrived to Delhi, India through Afghan passport No.02457655 on 25.10.2018. It is not out of place to mention here that Section 9 of Foreigners Act, 1946 provides that if there appears credible evidence before the Court raising a reasonable suspicion that the person is not an Indian citizen, the burden of proof shifts to that person to establish that he is not a foreigner and in this case, it is alleged that the petitioner being an Afghan National is un-authorizedly staying in India by forging Indian passport. This Court at this stage of consideration of bail does not decide the probative value of the documents, but the petitioner has been alleged to be possessing an Afghan passport as well as Indian passport, which was claimed to be forged, but the petitioner was also found with some Indian documents like Aadhaar Card, PAN Card and Driving License etc. in the name of Yaya Khan and the said documents cannot be ignored at this stage only to grant benefit of bail to the petitioner. Since it is alleged that the petitioner is



having forged passport, this Court has reasonable apprehension that the petitioner may abscond once he is released on bail.

6. On the other hand, the petitioner although is said to have been issued with Indian documents, but it could not be established by him that he is an Indian citizen, however, merely because the petitioner is having some Indian documents such as Aadhaar Card, PAN Card and Driving License, the same cannot be treated as sufficient proof of his lawful citizenship at this stage, especially when he is allegedly found in possession of fake passport and the presumption as available under Section 9 of Foreigners Act, 1946. In view of the aforesaid facts and circumstances and taking into account the nature and gravity of the offences as alleged against the petitioner vis-à-vis the accusation sought to be brought against him and regard being had to the materials placed on record and the petitioner being allegedly found with forged Indian passport and he being allegedly an Afghan National staying in India without any



valid passport and visa, this Court does not consider it prudent to grant bail to the petitioner.

7. Hence, the bail application of the petitioner stands rejected. Accordingly, the BLAPL stands disposed of. A copy of this order be immediately transmitted to the learned Court in seisin over the matter.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 23rd day of March, 2026/S.Sasmal*