



IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.11721 of 2025

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

Akash Kori @ Kasua ... ***Petitioner***
-versus-

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

For Petitioner : ***Mr. B.P. Tripathy, Sr.***
Advocate along with Mr.
S.S. Tripathy, Advocate

For Opposite Party : ***Mr. T.K. Acharya, Addl.***
PP

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:23.02.2026(ORAL)

G. Satapathy, J.

1. This is a bail application U/S.483 of BNSS by the petitioner for grant of bail in connection with STF, CID, CB, Bhubaneswar P.S. Case No. 08 of 2025 corresponding to Special G.R. Case No. 14 of 2025 pending in the file of learned Special Judge, Sonapur, for commission of offences punishable U/Ss.20(b)(ii)(C)/25/29 of the NDPS Act, on the main allegation of transporting 295Kgs 55Grams of



Contraband Ganja in a Creta car bearing Regd. No. OD-17-L-0074.

2. In the course of hearing, Mr. Biraja Prasad Tripathy, learned Senior Counsel, who is being assisted by Mr. Shyam Sundar Tripathy, learned counsel for the petitioner raises following few points for consideration of bail petition of the petitioner:-

(i) the petitioner was not found in exclusive possession of Contraband article;

(ii) the petitioner was produced before the Court beyond 24 hours in gross violation of Sec.58 of BNSS/57 CrPC and lastly;

(iii) the grounds of arrest was not communicated to the petitioner in violation of Sec.47 of BNSS/50 CrPC.

3. On the other hand, Mr. T.K. Acharya, learned Addl. PP while refuting such submission contends that not only the petitioner was found in exclusive possession of any Contraband article, but also he was duly communicated with the grounds of his arrest and he having been met with an accident, he was initially admitted to the hospital with intimation to the Court and thereby, his remand to the custody is



deemed to have taken place with prior permission of the Court and there is no question of violation of Sec.47 & 58 of BNSS by the arresting officer who has duly complied the mandatory provisions of law. Further, Mr. Acharya submits that since the petitioner has not been able to satisfy the conditions of Sec.37 of NDPS Act, his bail application may kindly be rejected.

4. After having considered the rival submissions upon perusal of record, there appears not only allegation against the petitioner for transporting 295.55Kgs of Contraband Ganja which is well above the commercial quantity in the vehicle, but also the Investigating Agency collected materials in the form of CDR and SDR analysis about the petitioner remaining present at the spot, however, on a careful scrutiny of the materials placed on record, since the quantity of Contraband Ganja allegedly recovered with allegation of nexus of the petitioner with such transportation of Contraband article, the further scrutiny that is required is as to whether the petitioner is required to satisfy the conditions of Sec.37 of NDPS Act in this case at hand.



Before dwelling upon such question on merit, this Court considers it proper to address the submission as advanced by Mr. Tripathy and moving to the challenge of the petitioner for not producing him in the Court within 24 hours, it appears from the certified copy of the order sheet of the concerned Court as produced that the Arresting Officer after detaining the present petitioner on 25.03.2025 at about 9.40P.M. has intimated the Court for taking the petitioner to hospital for his treatment, which was duly acknowledged by the learned Special Judge, Sonapur in-charge and thereby, it can be automatically considered that the Special Judge, Sonapur has permitted the Investigating Agency to get the petitioner treated at the hospital, inasmuch as treatment for the detainee-petitioner was necessary and most important at that time, otherwise there might be risk for life to the detainee-petitioner. It further found from the record that the detainee-petitioner after being treated at hospital was produced in the Court on 01.04.2025 and was remanded to custody, but at the time of production, the detainee-petitioner has not



raised any objection before the concerned Court with regard to his confinement beyond 24 hours at the hospital. Be that as it may, Sec. 187 of BNSS/167 of CrPC provides procedure when an investigation cannot be completed within twenty-four hours. Sec. 187 of BNSS/167 of CrPC states that whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 58 BNSS/57 CrPC and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter specified relating to the case, and shall at the same time forward the accused to such Magistrate. In this case, the intimation of the Investigating Officer about providing treatment to the petitioner which is essential and necessary at that time can constitute the deemed remand for the treatment of the accused in custody and



the production of papers as prescribed U/S. 187 of BNSS/167 of CrPC which is found from the order sheet of the learned Special Court justifies such remand. Further, the petitioner while being produced in the Court at the time of his remand to judicial custody has raised no objection or ill-treatment in custody by the police. In the aforesaid circumstance, it is, therefore, in the considered view of the Court that there is no violation of Sec.58 of BNSS/57 of CrPC.

5. Moving to the next challenge of the petitioner for want of communication of grounds of arrest, it appears that the certified copy of arrest memo as produced discloses at column No. 4 the circumstances of arrest in brief which reads as under:

"4. As prima facie evidence U/s. 20(b)(ii)(C)/25/29 of the NDPS Act, 1985/ Sec.341(3)/341(4)/336 of BNS is well made out against above noted accused in this case."

In the circumstance, a brief reference to the provision of Sec.47 of BNSS/50 of CrPC reveals that every police officer or other person arresting any person without warrant shall forthwith communicate to



him full particulars of the offence for which he is arrested or other grounds for such arrest. The aforesaid reference as made by the Arresting Officer in column-4 of the arrest memo clearly justifies the communication of grounds of arrest in terms of provisions of Sec.47 of BNSS/50 of CrPC, but another point was raised in this regard that since the petitioner was a Hindi speaking person, he should have been informed of his grounds of arrest in the language he understands, but the petitioner had not raised any objection with regard to communication of grounds of arrest to him in the language he understands at the time of his production in the Court nor was it stated by him then about non-communication of grounds of arrest to him nor had he stated to be not knowing about his grounds of arrest and thereby, the petitioner has not shown any prejudice caused to him at the time of arrest and the aforesaid plea of non-communication of grounds of arrest in the language he understands has been taken by the petitioner subsequently in bail application before this Court for the first time after around ten months of



his detention of his custody. Besides, no where it is stated or brought to the notice of the Court that the petitioner does not understand the language English for the purpose of compliance of Sec.47 of BNSS/50 of CrPC and he was not communicated with the grounds of arrest, more particularly when the arrest memo contains the signature of the wife and that of the petitioner himself, of course in Hindi. It is also no doubt advanced for the petitioner that since the petitioner was not informed about the grounds of arrest in writing, the benefit of violation of Sec.47 should be extended to the petitioner, but law has been made very clear in this regard in the decision in ***Mihir Rajesh Shah Vrs. State of Maharashtra; (2026) 1 SCC 500***, wherein the Apex Court in paragraph- 68 has held as under:-

*68. We are cognizant that there existed no consistent or binding requirement **mandating written communication of the grounds of arrest for all the offences.** Holding as above, in our view, would ensure implementation of the constitutional rights provided to an arrestee as engrafted under Article 22 of the Constitution of India in an effective manner. Such clarity on obligation*



*would avoid uncertainty in the administration of criminal justice. The ends of fairness and legal discipline therefore demand that this procedure as affirmed above shall govern arrests **henceforth.**"*

The Judgment in **Mihir Rajesh Shah(supra)**, was rendered by the Apex Court on 06.11.2025, but the petitioner herein was arrested on 25.03.2025, which is much before the aforesaid decision, but the procedure as affirmed by the Apex Court in **Mihir Rajesh Shah(supra)** should apply prospectively for furnishing written communication of grounds of arrest to the arrestee. In view of the aforesaid discussions and taking into account the facts involved in this case, this Court hardly finds violation/infracton of provision of Sec.50 CrPC/47 BNSS.

6. Now coming to the other issue about satisfaction of conditions of Sec. 37 of NDPS Act by the petitioner, since the petitioner was found to be allegedly involved in transportation of commercial quantity of Contraband Ganja, it appears that there are material allegation against the petitioner for



transporting more than the commercial quantity of Contraband article and the petitioner was allegedly found nearby the place of detection at the time of his apprehension when he met with an accident after being chased by the Police personnel in connection with transportation of Contraband article. In the aforesaid facts and circumstances, this Court hardly finds the petitioner to have satisfied 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.

7. In the result, the bail application of the petitioner stands rejected. Accordingly, the BLAPL stands disposed of.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 23rd February, 2026/S.Sasmal*