



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.996 of 2025

Swapneswar Panigrahi @ Siba **Petitioner**

Mr. J. Sahoo, Advocate

-Versus-

State of Odisha **Opposite Party**

Ms. B. Dash, ASC

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

18.12.2025

Order No.

01.

1. Heard Mr. Sahoo, learned counsel for the petitioner and Ms. Dash, learned ASC for the State.

2. Instant revision is filed by the petitioner challenging the impugned order dated 17th November, 2025 passed in connection with G.R. Case No.37 of 2023 by the learned Adhoc Additional District & Sessions Judge (FTSC) under POCSO Act, Berhampur, whereby, an application for fresh DNA report from another Forensic Laboratory as per Annexure-1 moved by him was declined.

3. It is submitted by Mr. Sahoo, learned counsel for the petitioner that the DNA report was received on record but with an opinion that the petitioner cannot be excluded as the biological father of the female baby of the victim, consequent upon which, an application i.e. Annexure-1 was pressed into service with a request to send DNA sample and to obtain report



from a Forensic Laboratory but it has been rejected but such an exercise is necessary since the petitioner is claimed to be responsible for the birth of the female baby of the victim, who lodged the FIR against him alleging rape.

4. The petitioner has been alleged of having committed offences punishable under Sections 376(3)/376(n) and 506 IPC besides Section 6 of the POCSO Act. In fact, DNA sample was collected and report was received and it was included in the record pursuant to Court's order in CRLMC No.5214 of 2023 but in view of the finding therein, the application as per Annexure-1 was moved. The Court, on a reading of the impugned order at Annexure-2, finds that the DNA report is not certain in order to ascertain the identity of the biological father of the child born to the victim. Since such an exercise was undertaken during investigation and DNA report was managed but in view of the conclusion reached at in the said report that the petitioner cannot be ruled out as the father of the newly born female baby of the victim, which is really not conclusive, the Court is of the view that such a request for fresh DNA sampling could not have been rejected by the learned court below on the premise that such report at times is inconclusive. Even though the allegation is rape against the petitioner independently to be examined but since DNA report was obtained and the same has been received with such a finding stated above, it is reiterated by the Court that fresh DNA sampling could have been directed by the learned court below instead of rejecting Annexure-1. Furthermore, it is informed to the Court that DNA report since was not included and there



was delay, it was finally received by the learned court below in the year 2024, whereafter, the application was moved by the petitioner demanding a fresh DNA sampling and report. Considering the fact that the petitioner is in judicial custody and such demand has been made only upon DNA report was received by the learned court below of course in the year 2024 and claimed not to have been immediately supplied to him, in the ultimate view of the Court, it would be just and proper to direct a fresh DNA test, as has been demanded. In other words, it has to be held that the learned court below should have allowed such a request while entertaining the application dated 11th November, 2025 as per Annexure-1.

5. Accordingly, it is ordered.

6. In the result, revision petition stands allowed. Consequently, the impugned order dated 17th November, 2025 in G.R. Case No.37 of 2023 at Annexure-2 is hereby set aside with a direction to the learned Adhoc Additional District & Sessions Judge (FTSC) under POCSO Act, Berhampur to direct a fresh DNA test with the assistance of any other Laboratory other than SFSL, Rasulgarh, Bhubaneswar and thereafter, upon receiving the report to consider the same in course of trial and for a decision towards the end at the time of delivery of judgment.

7. Issue urgent certified copy as per rules.

Signature Not Verified

Digitally Signed
Signed by: ALOK RANJAN SETHY
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 19-Dec-2025 12:16:04



(R.K. Pattanaik)
Judge