



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLMC No.64 of 2026

Ashok Kumar Sahu

.....

Petitioner

Represented by Adv. -
Jugala Kishore Panda

-versus-

State Of Odisha

.....

Opposite Party

Represented by Adv. –

Mr. S.K. Parhi, ASC

CORAM:

MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER

08.01.2026

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the parties and perused the records.
3. This is an application under Section 528 of the BNSS has been filed by the Petitioner with a prayer to quash of the F.I.R in Tarava P.S Case No.230 of 2025 corresponding to Special G.R Case No.56 of 2025 by the learned District and Sessions Judge, Sonapur, for alleged commission of offences under Sections 20(b)(ii)C, 25 & 29 of NDPS Act.
4. Learned counsel for the Petitioner, at this juncture, submitted that the Petitioner does not want to press this application and seek permission to withdraw the same with liberty to raise all the points at the appropriate stage by filing an appropriate application.



5. Considering such submission, this CRLMC stands disposed of as withdrawn with the liberty as sought for.

6. Further, taking into consideration the submission made by the learned counsel for the Petitioner that the Petitioner has been implicated in the present case on the basis of the statement of the co-accused; and that in view of the law laid down by the Hon'ble Supreme Court in *Tofan Singh v. The State of Tamil Nadu*, reported in (2013) 16 SCC 31, the statement of the co-accused cannot be accepted as evidence, so far the present Petitioner is concerned; and that nothing has been recovered from the exclusive and conscious possession of the present Petitioner, therefore, the bar under Section 37 of the N.D.P.S. Act would not be attracted to the fact of the present case. In view of the above factual position, without expressing any opinion on merits of the matter, it is directed that if the Petitioner surrenders before the court in seisin over the matter within four weeks from today and moves an application for bail, the court in seisin over the matter shall consider and dispose of the bail application of the Petitioner in accordance with law on the same day. While considering the bail application of the Petitioner, the court in seisin over the matter shall also keep in view the law laid down by the Hon'ble Supreme Court in *Tofan Singh's* case (supra) and shall also take into consideration the fact that the bar under Section 37 of the N.D.P.S Act would not be attracted to the facts of the present case and pass necessary order.

7. The Case Diary be made available to the concerned court to facilitate disposal of the bail application of the Petitioner.



8. Accordingly, the CRLMC is disposed of.

Issue urgent certified copy of this order as per Rules.

(Aditya Kumar Mohapatra)
Judge

Sisir