



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.384 of 2026

CNR- ODHC010292952026

**Girija Shankar Sabat @ Appellant/
Koko Sabat Petitioner**

Represented by Adv.-
Mr. Lalatendu Samantaray,
Senior Advocate

-versus-

**State of Odisha & another Respondents/
Opp. Parties**

Represented by Adv.-
Mr. Jateswar Nayak, AGA
Ms. Soma Nanda, Advocate

CORAM:

HON'BLE MR. JUSTICE SIBO SANKAR MISHRA

ORDER

19.08.2026

(Hybrid mode)

Order No.

05.

1. Heard Mr. Lalatendu Samantaray, learned Senior Advocate appearing for the appellant, Mr. Jateswar Nayak, learned Additional Government Advocate appearing for the State and Ms. Soma Nanda, learned counsel for the opposite party no.2.

2. The appellant is aggrieved by the order dated 10.02.2026 passed by the learned Additional Sessions Judge-cum-Special Judge, Khallikote, Ganjam in Special G.R. Case No.20/2024, whereby in exercise of the power under Section 319(1) of Cr.P.C., the appellant has been summoned to face the trial in



regard to Khallikote P.S. Case No.531 of 2024 for the offences punishable under Sections 427/447 of IPC r/w Sections-3(1)(f)/3(1)(g)/3(2)(va) of SC & ST PoA Act. The learned trial Court has relied upon the evidence of P.Ws.1 and 2, who have implicated the present appellant in their testimony. Hence, the Ld. trial Court, in exercise of the power under Section 319(1) of Cr. P.C. has summoned the present appellant to facing the trial alongwith the other co-accused persons.

3. Mr. Samantaray, learned Senior Advocate for the appellant by taking me to the impugned order dated 10.02.2026 submits that the learned trial Court, while exercising the power under Section 319(1) of Cr. P.C., virtually convicted the appellant by observing that the case against the appellant is clearly made out under different provisions of panel laws besides the offences punishable under Sections 3(1)(s)/3(1)(f)/3(1)(g)/3(2)(va) of SC & ST PoA Act. He has particularly drawn the attention of this Court to the following observation made by the trial Court:

" From the materials on record and more specifically from the evidence of P.W.1 and P.W.2, it appears to me that Koka Sabat @ Girija Sankar Sabat (the appellant) has committed offences punishable u/s.447/427 of IPC r/w sec. 3(1)(s)/3(1)(f)/ 3(1)(g)/3(2)(va) of SC & ST (POA) Act for which he could be tried together with accused Dhaneswar Palei. While holding so, I am conscious of the settled position of law that the power u/s.



319(1) of Cr.P.C. cannot be exercised in a routine manner and it should be used very sparingly. But in this case, evidence in the form of the testimony of P.W.1 and P.W.2 has come on record which sufficiently establishes that Koka Sabat has committed the above said offences. It also cannot be disputed that the Court can exercise this power suo motu. While doing so, I am fortified by the judgment of the Hon'ble Apex Court passed in Hardeep Singh vrs. State of Punjab, (2014) 57 OCR (SC)-455."

4. The primary objection of Mr. Samantaray, learned Senior Advocate is that the learned trial Court, while summoning the appellant to face the trial has virtually passed the order of conviction by recording that the appellant has committed the offences. This Court is completely in agreement with the submission made by Mr. Samantaray, learned Senior Advocate, hence of the opinion that the observation made by the learned trial Court while exercising the power under Section 319(1) of Cr. P.C. to summon the appellant was unwarranted. Therefore, the observation made by the learned trial Court in the impugned judgment shall not impede the right of the appellant to cross-examine P.Ws.1 and 2 and it is also expected that a fair opportunity should be given to the appellant to defend in the trial without being influenced by such unwarranted observation.

5. Although I am not inclined to interfere in the impugned order dated 10.02.2026, but its made clear



that the observation made by the learned trial Court in the impugned order shall not preclude the appellant from defending the case in the trial.

6. At this stage, Mr. Samantaray, learned Senior Advocate further submits that since the offences under the SC & ST (PoA) Act is involved in the present case, pursuant to the summoning order, if the appellant surrenders before the Court below, he may be taken into custody. Therefore, some protection order may be passed. To allay his apprehension, it is suffice to mention that the appellant shall move appropriate application for grant of bail before the Court below. This Court expects that regard being had to the nature of evidence and since the appellant is summoned by invoking the power under Section 319(1) of Cr.P.C. and earlier the appellant was granted anticipatory bail by this Court, the trial Court would pass appropriate order in the application.

7. The CRLA is accordingly disposed of.

(Sibo Sankar Mishra)
Judge

Subhasis

Signature Not Verified

Digitally Signed
Signed by: SUBHASIS MOHANTY
Designation: Personal Assistant
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 20-Aug-2026 19:54:08

