



CGHC010303712026



2026:CGHC:35192

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 1033 of 2026

Kayamuddin S/o Nizamuddin Aged About 61 Years R/o Behind Taj Engineering, Subhash Nagar, Moudahapara, Police Station- Moudahapara, District- Raipur (C.G.)

--- **Petitioner(s)**

versus

State of Chhattisgarh Through Station House Officer, Police Station-Kotwali Raipur, District- Raipur (C.G.)

--- **Respondent(s)**

and

CRR No. 1034 of 2026

Kayamuddin S/o Nizamuddin Aged About 61 Years R/o Behind Taj Engineering, Subhash Nagar, Moudahapara, Police Station- Moudahapara, District- Raipur, (C.G.)

---**Petitioner(s)**

Versus

State Of Chhattisgarh Through Station House Officer, Police Station- Kotwali Raipur, District-Raipur (C.G.)

... **Respondent**

For Petitioner : Ms. Fouzia Mirza, Sr. Advocate along with Mr. Ali Afzaal Mirza, Advocate.

For State : Mr. Himanshu Yadu, Panel Lawyer.

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

11/08/2026

1. Since common question of law and facts are involved in both the petitioner, they heard analogously and are being disposed of by this common order.
2. **CRR No. 1033/2026** has been filed by the petitioner assailing order dated 11.05.2026 passed by the learned Special Judge (NDPS Act), Raipur, District- Raipur (C.G.) by which the application filed by the

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petitioner under Section 91 of the Cr.P.C./94 of the BNSS, 2023 seeking mobile tower location and call detail record of the investigating officer and other police personnel, has been rejected.

3. **CRR No. 1034/2026** has been filed by the petitioner assailing order dated 07.07.2026 passed by the learned Special Judge (NDPS Act), Raipur, District- Raipur (C.G.) by which the application filed by the petitioner under Section 94 of the Cr.P.C./230 of the BNSS, 2023 has been rejected imposing cost of Rs. 500/- to the petitioner.
4. The facts in nutshell is that the petitioner filed an application under Section 94 of the BNSS, 2023 for providing CCTV footage and DVR which has been taken by the police personnel on 20.03.2026 and the same is in possession of the Raipur Crime Branch. She would further submit that on 29.05.2026 the petitioner preferred an application under Section 230 of the BNSS, 2023 for providing audio video recording of the investigation proceedings conducted under Section 105 & 185 (2) of the BNSS, 2023. Both the applications have been rejected by the learned trial Court vide order dated 11.05.2026. The petitioner again preferred application under Section 230 of the BNSS, 2023 which has also been rejected by the learned trial Court vide order dated 07.07.2026 by imposing cost of Rs. 500/-.
5. Learned senior counsel for the petitioner would submit that the CCTV footage and the information sought by the petitioner are absolutely necessary not only to investigate the matter thoroughly but also for the effective defense of the petitioner. She would further submit that the said electronic evidence is crucial to ascertain the veracity and truthfulness of the allegations leveled against the petitioner by the prosecution. She would further submit that this vital information at this

stage would amount to a violation of the principles of a fair trial, therefore, prayed for allowing both the petitions.

6. On the other hand, learned State counsel opposing the submission made by learned counsel for the petitioner would submit that the petitioner can take defence including provisions of Section 311 of Cr.P.C./351 of the BNSS, 2023 at the time of recording accused's evidence. He would further submit that the applications at this juncture are premature, aimed at delaying the trial, therefore, the trial Court has not committed any illegality in rejecting the same and would pray for dismissal of both the petitions.
7. I have heard learned counsel for the parties and perused the documents placed on record with utmost satisfaction.
8. After going through the order, this Court is of the view that the learned trial Court has not committed any illegality in rejecting the prayer for the production of documents. Even though it is the defence of the accused who has an ample opportunity to take his defence at the time of recording evidence under Section 313 of Cr.P.C. / Section 351 of BNSS, 2023. As such, the rejection of the applications filed by the petitioner does not suffer from any perversity or illegality which warrants any interference by this Court.
9. So far as imposition of the cost of Rs. 500/- is concerned, it has been contended by the learned senior counsel for the petitioner that the learned trial Court has exceeded its jurisdiction as the accused has a right to defence during the course of the trial, therefore, the imposition of a cost of Rs. 500/- is *per se* illegal, and he would pray for setting aside the same. This submission is vehemently objected by learned

State counsel and would submit that although the accused has a right to take his defence at the time of recording his evidence, the filing of vexatious or premature applications at an inappropriate stage justifies the regulating measures taken by the trial court to ensure the smooth progress of the trial.

10. However, considering the settled principles of criminal jurisprudence, the right to a fair defence is an essential facet of a fair trial. An accused must not be penalized with financial costs merely for preferring an application for his defence, even if such an application is found to be procedurally premature or non-maintainable at that particular juncture. Imposing pecuniary costs on an accused for seeking documents for his defense may inadvertently hamper the right to a free and open defence. As such, this Court finds that the learned trial Court exceeded its jurisdiction in imposing the cost of Rs. 500/-.
11. In view of the aforesaid discussions, the impugned orders passed by the learned trial Court do not suffer from any illegality or irregularity warranting any interference by this Court. The rejection of the petitioner's applications by the learned trial Court is upheld. However, the imposition of the fine/cost of Rs. 500/- upon the petitioner is hereby set aside.
12. Accordingly, the both the petitions are disposed of.

Sd/-
(Narendra Kumar Vyas)
Judge