IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL NO.1523 of 2026

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

Mylapalli Mahesh @ Raj *...* ***Petitioner***

-versus-

State of Orissa *...* ***Opposite Party***

For Petitioner : ***Mr. D. Mohapatra, Advocate***

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

CORAM: JUSTICE G. SATAPATHY
DATE OF HEARING & JUDGMENT:08.04.2026(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 Delanga PS Case No.379 of 2025 corresponding to GR Case No.920 of 2025 pending in the file of learned JMFC, Pipili, District-Puri for commission of offences punishable U/Ss.137(2)/ 127(2)/ 296/ 115(2)/ 142(2)/ 143/ 146/ 351(2)/3(5) of BNS, on the main allegation of illegally kidnapping and trafficking two minor victims for the purpose of employing in labour work.

2. Heard, Mr. Debidutta Mohapatra, learned counsel for the Petitioner and Mr. T.K. Acharya, learned

Addl. Public Prosecutor in the matter and perused the record.

3. Admittedly, the Petitioner has set up plea for bail to the Petitioner for want of compliance of the provision of Sec. 47 of BNSS/Article 22(1) of the Constitution of India, but in response to such plea, the OIC, Delang PS, Puri pursuant to an order passed by this Court on 16.03.2026 has filed an affidavit indicating therein about compliance of Sec. 47 of BNSS by stating inter alia in such affidavit the following:-

> *"It is humbly submitted that prior to arrest of the Petitioner, the police briefed him on the ground of arrest which has been reflected in the Case Diary No. XXIII and No. XXIV respectively as well as notice U/S. 47 of BNSS was issued to the petitioner in which the petitioner putting his signature. Copy of Notice U/S. 47 of BNSS is annexed herewith as Annexure-A."*

The document under Annexure-A attached to such affidavit reveals the following:-

> *"You are here by informed that you Mylapelli Mahesh @ Raj1, Bandamyasamma Nagar, Domalguda, Himayat Nagar, Hydrabad, A/p-Door No-7-12, Patel Nagar, Ramavarappadu, PS-Patamata, Vijaywada, Andharapradesh, Phone No-9966775916 was arrested on* ***25.11.2025*** *at 17:30 hours in Puri Delang PS Case No-379 dtd.* ***30.09.2025****. U/S*

*137(2) BNS and being produced before the Hon'ble Court X Addl. Judicial First class Magistrate, Kukatpally on **26.11.2025**. You are advised to prefer in bail."*

4. On the other hand, the certified copy of charge sheet together with memo of arrest and inspection memo as supplied for the Petitioner reveal the circumstance of arrest, in brief (Ground of Arrest) as under:-

"As prima facie evidence well established against him U/Ss.137(2)/ 127(2)/ 296/ 115(2)/ 142(2)/ 143/ 146/249/ 351(2)/3(5) of BNS r/w Section 14 Child Labour Prohibition Act."

It is worthwhile to mention, the date and time of arrest of the accused as found from the arrest memo is 28.11.2025 at 9:00 AM which is surprisingly not in confirmative with the notice issued to the Petitioner by the Inspector of Police, Delang PS, Puri under Annexure-A which reveals that the Petitioner was arrested on 25.11.2025 at 17:30 hours and produced before the Court of X Addl. Judicial First class Magistrate, Kukatpally on 26.11.2025. For a comparative scrutiny of the arrest memo and the notice stated to be as issued U/S. 47 of BNSS, it appears that

the Police in order to cover up the communication of grounds of arrest to the accused as directed in Sec. 47 of BNSS has prepared memo of arrest on 28.11.2025 by showing the time of arrest of the Petitioner at 9:05 AM. It is not possible for a Police Officer to arrest a person twice in connection with the same case. Besides, neither the arrest memo nor the notice purported to be issued U/S. 47 of BNSS reveals about furnishing the grounds of arrest to the accused-Petitioner in terms of the law laid down by the Apex Court in ***Mihir Rajesh Shah Vrs. State of Maharashtra; (2026) 1 SCC 500,*** wherein at paragraph 62, the Apex Court has observed as under:-

> *"62. xx xxx xx in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, while informing the grounds of arrest in writing on arrest each is rendered in practical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest.* ***Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the***

Magistrate for remand proceeding. *The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the Magistrate."*

5. What would be the consequence of non-compliance of Sec. 47 of BNSS/ Article 22(1) of the Constitution of India has been laid down by the Apex Court in ***Directorate of Enforcement vrs. Subash Sharma; 2025 SCC OnLine SC 240***, wherein at Paragraph-8, the Apex Court has held as under:-

> *"8. Once a Court, while dealing with a bail application, finds that the fundamental rights of the accused under* ***Articles 21*** *and* ***22*** ***of the Constitution of India have been violated*** *while arresting the accused or after arresting him,* ***it is the duty of the Court dealing with the bail application to release the accused on bail****. The reason is that the arrest in such cases stands vitiated. It is the duty of every Court to uphold the fundamental rights guaranteed under Articles 21 and 22 of the Constitution."*

6. In view of the aforesaid facts and discussion and taking into account the non-compliance of Sec. 47 of BNSS/ Article 22(1) of the Constitution of India and keeping in view the law laid down by the Apex Court in ***Subash Sharma(supra)*** & ***Mihir Rajesh***

Shah(supra), this Court has no other option left, but to admit the Petitioner to bail.

7. Hence, the bail application of the Petitioner stands allowed and he is allowed to go on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) only with one solvent surety for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper by it.

8. Accordingly, the BLAPL stands disposed of. Issue urgent certified copy of the order as per Rules. A soft copy of this order be immediately communicated to the concerned Court, who shall afterwards communicate the same to the concerned Jail through e-mail for reference.

(G. Satapathy)
Judge

Orissa High Court, Cuttack,
Dated the 8th day of April, 2026/Priyajit

Signature Not Verified
Digitally Signed
Signed by: PRIYAJIT SAHOO
Reason: Authentication
Location: HIGH COURT OF ORISSA
Date: 09-Apr-2026 13:25:56