A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3905 of 2026
CNR No. ODHC010291462026

Pratap Khemudu …. ***Petitioner***

Mr. S.K. Tripathy, Advocate

-versus-

State of Odisha …. ***Opposite Party***

Mr. C.R. Swain, AGA

CORAM: JUSTICE V. NARASINGH

ORDER
29.10.2026

Order No.

02. 1. Heard learned counsel for the Petitioner and learned counsel for the State.

2. The Petitioner is an accused in connection with Spl. G.R. Case No.130 of 2024 pending on the file of learned Addl. Sessions Judge-cum-Special Judge, Malkangiri, arising out of Kalimela P.S. Case No.212 of 2024 for commission of offence alleged under Sections 20(b)(ii)C[1]/27-A[2] of the N.D.P.S Act.

---

[1]**20. Punishment for contravention in relation to cannabis plant and cannabis.**— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses any manufactured drug or any preparation containing any manufactured drug shall be punishable,—

(*b*) produces, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses cannabis, shall be punishable,—

(*ii*) where such contravention relates to clause (*b*),—

3. Learned counsel, on instruction, submits that except the present BLAPL, no other bail application of the Petitioner relating to the aforementioned P.S. case is pending in any other Court.

4. Being aggrieved by the rejection of their applications for bail U/s.483[3] of the BNSS by the

---

(*C*) and involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

[2]**27-A. Punishment for financing illicit traffic and harbouring offenders**.—Whoever indulges in financing, directly or indirectly, any, of the activities specified in sub-clauses (*i*) to (*v*) of clause (*viii-b*) of Section 2 or harbours any person engaged in any of the aforementioned activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

[3]**483. Special powers of High Court or Court of Session regarding bail**.—(1) A High Court or Court of Session may direct,—

(*a*) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) of Section 480, may impose any condition which it considers necessary for the purposes mentioned in that sub-section;

(*b*) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice:

Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under Section 65 or sub-section (2) of Section 70 of the Bharatiya Nyaya Sanhita, 2023, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.

(2) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under Section 65 or sub-section (2) of Section 70 of the Bharatiya Nyaya Sanhita, 2023.

(3) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

learned Addl. Sessions Judge-cum-Special Judge, Malkangiri by order dated 19.03.2026 in the aforementioned case, the present BLAPL has been filed.

5. It is submitted by the learned counsel for the Petitioner that he is in possession of contraband (ganja) to the tune of 480 kgs and his further continuance in custody is punitive because of long incarceration and he submits that such incarceration violates his rights guaranteed under Article 21[4] of the Constitution.

6. Admittedly, the Petitioner was before this Court in BLAPL No.12359 of 2025 and by order dated 02.02.2026, his bail application was rejected after considering his criminal antecedent in Orkel P.S. Case No.368 of 2024 and Kalimela P.S. Case No.255 of 2024 of similar nature.

7. It is submitted by the learned counsel that in the meanwhile, in both the cases the Petitioner has since been released on bail by this Court, as such, the involvement of the Petitioner in the cases referred to hereinabove ought not to weigh with this Court.

[4] **21. Protection of life and personal liberty**.—No person shall be deprived of his life or personal liberty except according to procedure established by law.

8. Learned counsel for the State opposes such prayer in view of the rigors of Section 37(1)(b)(ii)[6] of NDPS Act.

9. It is apt to note that in its recent dictum in the case of ***State of Punjab v. Sukhwinder Singh @ Gora[5],*** the Apex Court has set rest that mere long incarceration in case of accusation under NDPS Act cannot be relied upon mechanically to grant bail in view of the rigors of Section 37(1)(b)(ii)[6] of NDPS Act and did not approve the finding of the High Court that "*the rigors of Section 37[6] of the NDPS Act can be diluted bearing in mind the right to a speedy trial"* while granting bail to the accused therein and stated.

The right to speedy trial, having its moorings in Article 21[4] of the Constitution had also been taken note of in para-11 of the said judgment.

---

[5] *State of Punjab v. Sukhwinder Singh @ Gora*, 2026 SCC OnLine SC 671.

[6] **37. Offences to be cognizable and non-bailable.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(*a*) every offence punishable under this Act shall be cognizable;

(*b*) no person accused of an offence punishable for offences under Section 19 or Section 24 or Section 27-A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—

(*i*) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(*ii*) where the Public Prosecutor oppose the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (*b*) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974), or any other law for the time being in force on granting of bail.

10. Considering the rival submission, in the light of the judgment of the Apex court in the case of ***Sukhwinder Singh @ Gora* (supra),** keeping in view the rigors of Section 37(1)(b)(ii)[6] of NDPS Act and also the criminal proclivity of the Petitioner notwithstanding grant of bail in those cases, this Court is not persuaded to hold that the Petitioner is able to overcome the twin bars of NDPS Act circumscribing the grant of bail.

11. Accordingly, this Court is **not inclined** to entertain this application. It shall be open for the Petitioner to renew his prayer before the learned Court in seisin, after examination of material witnesses.

12. Accordingly, the BLAPL stands disposed of. U.C.C as per rules.

(V. NARASINGH)
Judge

Soumya

Signature Not Verified
Digitally Signed
Signed by: SOUMYA RANJAN SAMAL
Reason: Authentication
Location: High Court of Orissa
Date: 30-Oct-2026 20:48:09