IN THE HIGH COURT OF ORISSA, CUTTACK

TRPCRL No.44 of 2026

CNR No.ODHC010345222026

Rashmi Ranjan Nayak ..... Petitioner

-Versus-

Banaja Rout and another ..... Opposite Parties

Advocate for the parties

For Petitioner : Mr. Abhijit Das, Advocate

For Opposite Parties : Mr. Akansh Acharya, Advocate

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CORAM: JUSTICE SANJAY KUMAR MISHRA

Date of Hearing & Judgment: 29.10.2026

S.K. MISHRA, J.

1. This transfer petition has been filed by the Petitioner-husband under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for transfer of proceeding in CRP No.190 of 2025 filed under Section 144 BNSS, 2023, pending in the Court of learned Judge, Family Court, Kendrapada, to the Court of learned Judge, Family Court, Cuttack on the grounds detailed therein.

2. It would be apt to mention here that, before taking up the matter for hearing, on the request of learned counsel for the parties, the parties were sent for mediation, which failed as per the report submitted by the learned Mediator vide his letter No.2584 dated 07.10.2026.

3. Hence, though no written objection has been filed till date, opposing to the prayer for transfer, on consent of learned Counsel for the parties, the transfer petition is taken up for hearing and disposal at the stage of admission permitting the learned Counsel for the Opposite Parties to have his oral objection to the prayer for transfer.

4. Heard learned Counsel for the parties.

5. Reiterating the grounds urged in the transfer petition, learned Counsel for the Petitioner-husband submits, there is a life risk for the Petitioner, if he goes to Kendrapada to attend the Court proceeding on each date, as the Opposite Party No.1-wife and her henchmen may attack him. That apart, the Petitioner-husband is working as a Supervisor at SGB Brand Safe Way Pvt. Ltd., under TATA Steel, Meramandali, Dhenkanal. It would be difficult on his part to attend the day-to-day proceeding before the leaned Judge, Family Court, Kendrapada by seeking frequent leave from his Employer.

6. Per contra, learned Counsel for the Opposite Parties submits, the Opposite Party No.1-wife is a deserted lady, having a minor girl child, who is around 2 years old, is staying with her parents at Kendrapada. That apart, she has no source of income to maintain herself so also to meet the expenses of her minor girl child and fully dependent on her parents. She has preferred CRP No.190 of 2025 under Section 144 BNSS, 2023, before the learned Judge, Family Court, Kendrapada seeking maintenance of Rs.20,000/- towards her so also her minor girl child's maintenance. In the said case, no order has been passed yet by the learned Judge, Family Court, Kendrapada for maintenance. That apart, being noticed in the said case, the Petitioner-husband has appeared and contesting the said case at Kendrapada. She being a destitute lady, having no source of income and having a minor girl child, it would be difficult on her part to attend the day-to-day Court proceeding at Cuttack, if the prayer for transfer is allowed.

7. Learned Counsel for the Opposite Parties further submits, as per the settled position of law, in transfer of matrimonial cases, the paramount consideration would be the wife's convenience. That apart, as the Opposite Party No.1-wife is at present residing at Village-Gobindpur, P.O.-Thauri, P.S-

Mahakalpada, in the district of Kendrapada, in terms of Section 126(1)(b) of the Code of Criminal Procedure, 1973, which is akin to Section 145(1)(b) of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, she has rightly preferred application for maintenance before the learned Judge, Family Court, Kendrapada. After the Opposite Party No.1-wife preferred application under Section 144 BNSS, 2023 for maintenance before the learned Judge, Family Court, Kendrapada, the Petitioner-husband has preferred an application under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights before the learned Judge, Family Court, Cuttack only to avoid payment of maintenance, so also to harsh her. That apart, the Opposite Party No.1-wife has preferred TRP(C) No.121 of 2026, which is on board, for transfer of said proceeding from Cuttack to Kendrapada.

8. Learned Counsel for the Opposite Parties further submits, there is no life risk for the Petitioner-husband, as has been falsely alleged. Had it been so, he would have lodged an FIR to the said effect. Only to justify the prayer for transfer of proceeding from Kendrapada to Cuttack, it has been falsely stated so in the present transfer petition that there is a life threat to the Petitioner, if he attends the Court proceeding at Kendrapada. Learned Counsel for the Opposite Parties further submits, if the

Petitioner has any difficulty to appear physically before the learned Judge, Family Court, Kendrapada, he can very well pray before the learned Court below to permit him to appear through virtual mode, instead of putting the Opposite Parties into further difficulty seeking a direction for transfer.

9. Law is well settled that, while dealing with transfer petitions in matrimonial cases, convenience of the wife must be looked at. In ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha,*** reported in 2022 SCC OnLine SC 1199, the Supreme Court held as follows:

> *"**9.** The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. **Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer**."*

(Emphasis supplied)

10. After going through the pleadings made in the transfer petition so also taking note of the contentions made by learned Counsel for the parties and the settled position of law, this Court is not inclined to allow the prayer made in the transfer petition.

11. That apart, CRP No.190 of 2025 being a Section 144 BNSS, 2023 proceeding, the Petitioner, who is represented through a lawyer, is not required to attend the day-to-day proceeding in the said case. If the Petitioner intends to depose as a witness in CRP No.190 of 2025, his presence may be required before the Court below. Hence, it is made clear that on any date, if the presence of the Petitioner is required before the Court below, but he is unable to remain physically present, he may move appropriate application before the Learned Judge, Family Court, Kendrapada to permit him to appear through virtual mode.

12. Accordingly, the learned Judge, Family Court, Kendrapada is requested to explore the facilities of Video Conferencing available in the said Court and permit the parties to appear before him through virtual mode following due procedure, as prescribed under the "High Court of Orissa and District Courts Use of Electronic Communication and Audio-Video Electronic

Means Rules, 2025", if so prayed by any of the parties. However, on the dates of effective hearing, i.e., for examination and cross-examination of witnesses and other purposes, for which their presence may be required by the Court and if it is so ordered, they shall remain physically present before the learned Judge, Family Court, Kendrapada.

13. Both the parties are directed not to seek for unnecessary adjournments and cooperate with the learned Judge, Family Court, Kendrapada, who shall do well to conclude the proceedings in CRP No.190 of 2025 at the earliest.

14. With the said observation and direction, the transfer petition stands disposed of.

15. I.A. No.44 of 2026 also stands disposed of accordingly.

16. Urgent certified copy of this judgment be granted on proper application as per rules.

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S.K. MISHRA, J.

Orissa High Court, Cuttack.
Dated, 29th October, 2026/ Kanhu

Signature Not Verified
Digitally Signed
Signed by: KANHU BEHERA
Designation: JUNIOR STENOGRAPHER
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 30-Oct-2026 16:33:25