IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4780 of 2026
CNR No. ODHC010353632026

Debendra @ Deba Khilla *....* ***Petitioner***

Mr. S. K. Tripathy, Advocate

-versus-

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

Mr. S. Panda, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
17.11.2026

Order No.

03. 1. Heard learned Counsel for the Petitioner and learned counsel for the State.

2. The Petitioner is an accused in connection with Special G.R. Case No.187 of 2023 pending on the file of learned Additional Sessions Judge - Cum - Special Judge, Malkangiri, arising out of **Malkangiri P.S. Case No.488 of 2023** for commission of offence alleged under Sections 20(b)(ii)C, 25 & 29 of NDPS Act.

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 his application for bail U/s.483 of the Bharatiya Nagarik

Suraksha Sanhita (BNSS) by the learned Additional Sessions Judge - Cum - Special Judge, Malkangiri by order dated 27.04.2026 in the aforementioned case, the present BLAPL has been filed.

5. It is submitted by the learned counsel that the Petitioner is in custody since 30.03.2024 on the accusation that he along with the co-accused was involved in the transportation of contraband (Ganja) to the tune of 150 kg. Hence, the Petitioner seeks release, inter alia, on the ground of long incarceration since only one witness out of 23 cited has been examined.

6. Learned counsel for the State opposes such prayer referring to the criminal antecedent of the Petitioner which has been stated in the affidavit filed at his behest.

For convenience of reference the said antecedents extracted hereunder:-

> "i) Spl. T.R. Case no. 25 of 2020 pending in the court of learned Sessions Judge-cum-Special Judge, Malkangiri arising out of Chitrakonda P.S Case no. 25 of 2020 instituted under section 20 (b) (ii) (C)/25/29 of N.D.P.S Act. Released on bail vide order dated 28.06.2024 passed in BLAPL No. 5914 of 2024.
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> ii) Spl. G.R. Case no. 128 of 2023 pending in the court of learned Addl. Sessions Judge-cum-Special Judge, Malkangiri arising out of Kalimela P.S Case no. 121 of 2023 instituted

under section 20 (b) (ii) (C)/25/29 of N.D.P.S Act."

7. Learned Public Prosecutor also relies on the rigors of Section 37(1)(b)(ii) of NDPS Act.

8. In its recent dictum the Apex Court dealing with the long incarceration vis-à-vis the stringent provisions of Section 37(1)(b)(ii) of NDPS Act has settled the law in the case of ***State of Punjab v. Sukhwinder Singh,*** **(2026) 7 SCC 513**.

It would be apt to quote Paragraph No.11 thereof:-

> "11. The right to speedy trial, rooted in Article 21 of the Constitution, is undoubtedly a precious constitutional right. That said, in matters governed by a special enactment such as the NDPS Act, particularly where the recovery is of commercial quantity, the said right under Article 21 must be exercised within the framework of Section 37 and cannot be pressed into service solely on the ground of delay to override it. The constitutional right under Article 21 and the special provision of law under Section 37 of the NDPS Act are to be read harmoniously and not placed in opposition to each other. The High Court, by failing to record its satisfaction on the twin conditions under Section 37, has in this Court's view, committed an error."

9. Taking into account the nature of allegations and keeping in view the criminal antecedents of the

Petitioner of similar nature, this Court is not persuaded to hold that the Petitioner is able to cross the statutory Bar which applies in equal measure even during the trial. Hence, this Court is **not inclined** to entertain the bail application of the Petitioner at this stage.

10. The learned Court in seisin is requested to expedite the trial.

11. Liberty is granted to the Petitioner to renew his prayer before the learned trial Court after examination of the independent witnesses.

In the event such an application is made, the same shall be considered on its own merit without being prejudiced by any of the observations made herein which are only for the purpose of considering the bail application of the Petitioner at this stage.

12. Accordingly, the BLAPL stands disposed of.

U.C.C. as per rules.

(V. NARASINGH)
Judge

Jina

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Reason: Authentication
Location: High Court of Orissa
Date: 18-Nov-2026 18:32:29