IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6887 of 2026

CNR No. ODHC010441012026

Nuresha Khatoon @ Madhu .... ***Petitioner***

Mrs. Saswata Patnaik, Advocate

-versus-

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

Mr.C.R. Swain, AGA

CORAM: JUSTICE V. NARASINGH

ORDER

04.11.2026

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.4 of 2023, pending on the file of learned 1st Additional Sessions Judge-cum-Special Judge, Rourkela, arising out of Plantsite P.S. Case No.100 of 2023 for alleged commission of offences under Section 21(c)[1]/25[2]/29[3] of the Narcotic Drugs

[1] **21. Punishment for contravention in relation to manufactured drugs and preparations.**— 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,— (*c*) where the contravention 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] **25. Punishment for allowing premises, etc., to be used for commission of an offence.**—Whoever, being the owner or occupier or having the control or use of any house, room, enclosure, space, place, animal or conveyance, knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable with the punishment provided for that offence.

[3] **29. Punishment for abetment and criminal conspiracy.**—(1) Whoever abets, or is a party to a criminal conspiracy to commit, an offence punishable

and Psychotropic Substances Act, 1985(in short '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 her application for bail U/s.483[4] of the Bharatiya Nagarik Suraksha Sanhita (BNSS) by the learned 1st Additional Sessions Judge-cum-Special Judge,

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under this Chapter, shall, whether such offence be or be not committed in consequence of such abetment or in pursuance of such criminal conspiracy, and notwithstanding anything contained in Section 116 of the Indian Penal Code (45 of 1860), be punishable with the punishment provided for the offence.

(2) A person abets, or is a party to a criminal conspiracy to commit, an offence, within the meaning of this section, who, in India, abets or is a party to the criminal conspiracy to the commission of any act in a place without and beyond India which—

(*a*) would constitute an offence if committed within India; or

(*b*) under the laws of such place, is an offence relating to narcotic drugs or psychotropic substances having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within India.

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.

Rourkela by order dated 29.05.2026 in the aforementioned case, the present BLAPL has been filed.

5. Learned counsel for the Petitioner submits that the Petitioner along with others have stated to be involved in transportation of contraband to the tune of 258 grams and 03 milligram (brown sugar).

6. It is submitted that the present Petitioner was never subjected to investigation and in the preliminary charge sheet, the Petitioner was not cited as an accused. At this juncture, drawing attention of this Court to the recitals of the preliminary charge sheet submitted on 08.09.2023, it is submitted that the same has been filed against Hassan Khan, Nadeem Khan @ Nabin, Md. Pyare & Tarique Anwar under sections 21(c)[1]/25[2] of the NDPS Act and Alam @ Md. Irshad has been shown as an absconder and the further investigation was kept open under section 173(8)[5] of the Cr.P.C. For convenience of reference, the relevant recitals of the said preliminary charge sheet is culled out hereunder:

[5] **173. Report of police officer on completion of investigation**.— (8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).

"Under the facts and circumstances, it is a true case U/s-21(c)/25 of NDPS against accused persons namely (1) Hassan Khan, 31 yrs, S/o-Lt. Ashique Khan of Mahtab Road, Islam Nagar, PS-Plantsite, Rourkela (2) Nadeem Khan @ Nabin, 33 yrs, Sio-Lt. Raza Khan of Panposh, Koel bank. PS-Raghunathpalli, Rourkela (3) Md. Pyare, 42 yrs, Slo-Md. Abul Khair of Mahatab Road, PS-Plantsite, Rourkela and (4) Tarique Anwar, 29 yrs, S/o-Md. Moin of RDA Building, PS-Plantsite, Rourkela all are of Dist-Sundargarh. Hence, I submitted CS vide CS no-251 Dt-08.09.2023 U/s-21(c) /25 of NDPS against the above noted accused persons showing accuse Irshad Alam @ Md Irshad as absconder to face their trial in the court of law. Keeping the investigation of this case open as per section 173(8) Cr.P.C. to complete the above pending investigative steps."

7. It is stated that this Court directed release on bail of the above-named co-accused by orders dated 21.04.2025, 16.12.2024, 29.01.2025, 23.08.2024, and 08.10.2024, passed in BLAPL Nos. 1645 of 2025, 155 of 2025, 6777 of 2024, and 10167 of 2024, respectively. Hence, *inter alia* on the ground of parity also the Petitioner seeks bail.

8. It is the further submission of learned counsel for the Petitioner that the sole basis of implication of the present Petitioner is on account of co-accused statement and even if the entire prosecution case, as delineated in the charge sheet is accepted at its face value, no specific role has been attributed to the Petitioner. Hence, it is stated that further continuance of the Petitioner in custody is not only unwarranted but in fact is punitive.

9. Learned counsel for the State, while opposing the prayer for grant of bail, submits that the supplementary charge sheet has been submitted on 03.09.2026 wherein the Petitioner has been cited as Accused No.5 and it is his further submission that she was taken to custody on execution of NBW and the same ought not to be lost sight of while considering the prayer for grant of bail.

10. *Per contra,* it is submitted by learned counsel for the Petitioner that the Petitioner is admittedly cited as accused in Plantsite P.S. Case No.184 of 2018 instituted under sections 21(b)[6]/29[3] of the NDPS Act and the Petitioner was on bail in said case.

While filing of the charge sheet on 08.09.2023 in the case at hand and during the currency of the investigation culminating in filing of subsequent charge sheet on 03.09.2026, the Petitioner was attending the Court.

So, the question of abscondence of the Petitioner does not stand to reason.

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[6] **21. Punishment for contravention in relation to manufactured drugs and preparations.**—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*) where the contravention involves quantity, lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;

10-A. It is submitted with vehemence that during the entire currency of investigation, the provisions as contained in section 67[7] of the NDPS Act were followed in its breach. Therefore, apart from the ground of parity, the Petitioner is otherwise entitled to be released on bail.

11. Learned counsel for the State, on the other hand, submits that merely because the Petitioner is not cited as an absconder, in the light of the mention in the CD that a case has been well made out against her, cannot absolve the Petitioner and submits that only because the Petitioner was appearing in another case, that cannot be a ground to justify that she was wrongly shown as an absconder.

12. So far as ground of parity is concerned it is apt to refer to the judgment of the Apex Court in the case of ***Satender Kumar Antil v. Central Bureau of Investigation***[8].

13. Considering the rival submissions apart from taking into account the release of the co-accused

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[7] **67. Power to call for information, etc.**—Any officer referred to in Section 42 who is authorised in this behalf by the Central Government or a State Government may, during the course of any enquiry in connection with the contravention of any provision of this Act—

(*a*) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or any rule or order made thereunder;

(*b*) require any person to produce or deliver any document or thing useful or relevant to the enquiry;

(*c*) examine any person acquainted with the facts and circumstances of the case.

[8] *Satender Kumar Antil v. CBI*, (2022) 10 SCC 51.

persons on bail and that the Petitioner is a lady, keeping in view the special provision under section 480(1)[9] of BNSS, this Court is of the considered view that the Petitioner prima facie satisfies both the limbs of Section 37(1)(b)(ii)[10] of the NDPS Act, no material having been placed on record by the prosecution, notwithstanding filing of the subsequent charge sheet to connect the Petitioner with the commission of the alleged offence.

Hence, the Petitioner is directed to be released on bail on such terms to be fixed by the Trial Court.

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[9] **480. When bail may be taken in case of non-bailable offence**.—(1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but—

(*i*) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(*ii*) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a cognizable offence punishable with imprisonment for three years or more but less than seven years:

Provided that the Court may direct that a person referred to in clause (*i*) or clause (*ii*) be released on bail if such person is a child or is a woman or is sick or infirm:

Provided further that the Court may also direct that a person referred to in clause (*ii*) be released on bail if it is satisfied that it is just and proper so to do for any other special reason:

Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation or for police custody beyond the first fifteen days shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court:

Provided also that no person shall, if the offence alleged to have been committed by him is punishable with death, imprisonment for life, or imprisonment for seven years or more, be released on bail by the Court under this sub-section without giving an opportunity of hearing to the Public Prosecutor.

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

(*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—

(*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.

14. Needless to state that the observations made herein are only for the purpose of considering this BLAPL and ought not to be construed as this Court expressing any view regarding the complicity of the accused, which has to be established independently.

15. Accordingly, the BLAPL stands disposed of.

(V. Narasingh)
Judge

Basu

Signature Not Verified
Digitally Signed
Signed by: BASUDEV NAYAK
Designation: Addl. Dy. Registrar-cum-Addl. Pr. Secy
Reason: Authentication
Location: HIGH COURT OF ORISSA : CUTTACK
Date: 06-Nov-2026 16:29:47