IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.6407 of 2026
CNR No. ODHC010459732026

Tushar Mallick .... ***Petitioner***

Mr.Durgadutta Mohapatra, Advocate

-versus-

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

Mr.S. Panigrahi, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

Order No. **04.11.2026**

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

2. The Petitioner is an accused in connection with S.T. Case No.08 of 2025, pending on the file of learned Additional Sessions Judge, Nimapara, arising out of Kakatpur P.S. Case No.185 of 2025 for alleged commission of offences under Section 118(1)/118(2)/ 109/351(2)/3(5) of BNS, 2023.

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, Nimapara by order dated 12.06.2026 in the aforementioned case, the present BLAPL has been filed.

5. It is submitted that the Petitioner is languishing in custody since 31.07.2025 and in the meanwhile nine witnesses have been examined. It is stated that P.W.11 from whom P.Ws.2 & 6, the informant and her father, stated to have heard about the occurrence, have not supported the prosecution in material particulars and the death, having been taken place about 1 month & 10 days of the occurrence, further continuance of the Petitioner in custody is not warranted.

6. Learned counsel for the State as well as Informant opposes the prayer for grant of bail *inter alia* relying on the statement of P.W.9. It is the further submission of learned counsel for the State that further investigation in the case hand is continuing and there are prima facie materials, which has come to the fore regarding the complicity of the Petitioner.

7. Referring to the provision contained in section 193(9)[1] of BNSS, it is submitted by learned counsel for the Petitioner that in view of the proviso, no reliance can be placed on the statement, which has stated to have recorded during further investigation.

[1] **193(9)-** Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (3) 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 as the State Government may, by rules, provide; and the provisions of sub-sections (3) to (8) 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 (3):Provided that further investigation during the trial may be conducted with the permission of the Court trying the case and the same shall be completed within a period of ninety days which may be extended with the permission of the Court.

8. This Court closely perused the evidence adduced during trial including that of the P.W.9, which is filed in Court.

9. On a conspectus of the evidence on record including that of the P.W.9, **this Court is not inclined to entertain this application.** Since the learned Trial Court is in seisin of the matter, this Court refrains from making any observation regarding the evidentiary value of the statement of P.W.9 since it is likely to prejudice the ongoing trial.

10. On consideration of evidence as well as material on record, while not entertaining this BLAPL at this stage, this Court gives liberty to the Petitioner to move an application before the Court below at a later stage, which shall be considered on its own merit.

11. It is apposite to make it clear that this Court has not expressed any view regarding the submission *qua* tenability of further investigation, in terms of section 193(9) of BNSS.

12. Accordingly, the BLAPL stands disposed of.

(V. Narasingh)
Judge

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