IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8480 of 2026
CNR No. ODHC010574702026

Kusa Naik @ Kusha Kanhar .... ***Petitioner***

Mr. S. K. Pradhan, Advocate

-versus-

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

Mr. C. R. Swain, AGA

CORAM: JUSTICE V. NARASINGH

ORDER
30.10.2026

Order No.

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

2. The Petitioner is an accused in connection with Spl. Case No.23 of 2022 (NDPS)/(Special Case No.42(A)/2020) pending on the file of learned Addl. Sessions Judge-cum- Special Judge, Boudh, arising out of **Boudh P.S. Case No.234 of 2020** for commission of offence alleged under Section 20(b)2(ii)(C) 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 Addl. Sessions Judge-cum- Special Judge, Boudh by order dated 05.05.2026 in the aforementioned case, the present BLAPL has been filed.

5. Having failed in multiple attempts to obtain release, both in pre-arrest and post-arrest bail, the Petitioner's application is being moved, on the ground, that there are changed circumstances inasmuch as the witnesses to seizure have not supported the prosecution.

6. Learned counsel for the State submits that the contraband involved in the case at hand is to the tune of 80 kg 200 grams and in view of the rigors of Section 37(1)(b)(ii) of NDPS Act, the application does not merit any consideration and more so since the Petitioner was an absconder.

7. It is stated that the Petitioner is in custody from 18.10.2024 and to buttress his submissions, the learned counsel for the Petitioner further submits that the co-accused has since been released on bail vide order dated 19.09.2022 in BLAPL No.6397 of 2022 and hence, on the ground of parity, the Petitioner seeks release on bail.

8. In this context reliance is placed on the judgment of the Apex Court in the case of ***Satender Kumar Antil v. CBI,*** **(2022) 10 SCC 51**, more particularly Paragraph No.100 relating to parity.

For convenience of reference, the said Paragraph is extracted hereunder:-

> "xxx xxx xxx
> **98.** Uniformity and certainty in the decisions of the court are the foundations of judicial dispensation. Persons accused with same offence shall never be treated differently either by the same court or by the same or different courts. Such an action though by an exercise of discretion despite being a judicial one would be a grave affront to Articles 14 and 15 of the Constitution of India.
> xxx xxx xxx"

9. Learned counsel for the State opposes the prayer for bail and submits that the Petitioner has one criminal antecedent of similar nature and that ought to weigh with this Court in view of the rigor of Section 37(1)(b)(ii) of NDPS Act.

10. Considering the rival submissions and taking into account that the seizure witnesses have not supported the prosecution keeping in view the la laid down by the Apex Court in the case of ***Ankur Chaudhary v. State of Madhya Pradesh,*** **2024 SCC OnLine SC 2730** this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned Court in seisin so as to ensure his presence during the trial.

11. Additionally, it is directed that the Petitioner shall appear before the jurisdictional police station

once every month on Sunday on such date and time to be fixed by the learned Court in seisin till conclusion of trial. Certification of such appearance shall be submitted to the Court in seisin.

12. Accordingly, the BLAPL stands disposed of.

U.C.C. as per rules.

13. Registry is requested to send a copy of this order via electronic mode to the Superintendent of the concerned jail, in addition to the communication through Order Communication Portal (OCP) of this Court.

(V. NARASINGH)
Judge

Jina

Signature Not Verified
Digitally Signed
Signed by: JINA DIGAL
Reason: Authentication
Location: High Court of Orissa
Date: 31-Oct-2026 15:33:28