IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.9438 of 2026
CNR No. ODHC010707502026

Gopinath Modak ..... ***Petitioner***

Represented by Adv.
- Bijay Kumar Behera

-versus-

State Of Odisha ..... ***Opposite Party***

Represented by Adv. –
U.C. Jena, A.S.C.

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
27.10.2026

Order No.

01. 1. This matter is taken up through Hybrid Mode.

2. Heard learned counsel appearing for the Petitioner and learned Additional Standing Counsel appearing for the State-Opposite Party. Perused the materials placed before this Court.

3. The present bail application under Section 483 of B.N.S.S. has been filed by the Petitioner for regular bail in connection with T.R Case No.315 of 2025, arising out of G.R.P.S Case No.105 of 2025, pending in the Court of learned 3rd Additional Sessions Judge, Bhubaneswar for alleged commission of offence punishable under Sections 20(b)(ii)C of the N.D.P.S. Act.

4. It is submitted by the learned counsel for the Petitioner that the Petitioner is in custody since 16.06.2025. He further submitted that the investigation has been concluded and the charge sheet has been filed. He further submitted that although the charge has been

framed, however, the trial is yet to commence. Learned counsel for the Petitioner, further referring to the seizure list, submitted before this Court so far the present Petitioner is concerned, a total quantity of 15 kg 100 gms of contraband Ganja was recovered from his exclusive and conscious possession. Similarly, a total quantity of 21 kg of contraband Ganja was recovered from accused-Anwar Hussain and a total quantity of 15 kg 200 gms was recovered from accused-Sahil Mahajan @ Afrid Hussain. Learned counsel for the Petitioner further submitted that in the meantime accused-Anwar Hussain has passed away while he was in custody. He further submitted that the Petitioner does not have any similar criminal antecedent. Further contends that the Petitioner does not belong to State of Odisha, therefore, the Petitioner is ready and willing shall abide by any terms and conditions as this Court deems fit and proper in the facts and circumstances of the case.

5. On perusal of the record, it appears that although as per the prosecution allegation, a total quantity of 51 kg 300 gms of contraband Ganja was recovered from three accused persons. However, the seizure list shows that separate seizures have been made from the exclusive and conscious possession of the co-accused persons. In the aforesaid factual backdrop, this Court is of the view that the bar under Section 37 would not be attracted to the facts of the Petitioner's case as the seized quantity of contraband Ganja in respect of each of the accused person is less than the commercial quantity.

6. Learned Additional Standing Counsel, on the other hand, opposed the bail application of the Petitioner on the ground that such cases are increasing day-by-day and no leniency should be

shown to the Petitioner. He further submitted that the Petitioner belongs to State of West Bengal, therefore, release of the Petitioner be difficult to ensure the appearance of the Petitioner before the Trial Court during trial. In such view of the matter, he submitted that the bail application of the Petitioner be rejected at this juncture.

7. Having heard the learned counsels appearing for the respective parties and on a careful examination of the surrounding facts and circumstances of the present case as well as the quantity of the contraband Ganja seized, further taking note of the period of custodial detention and the fact that the charge sheet has already been filed and that the Petitioner does not have any similar criminal antecedent, this Court is inclined to release the Petitioner on bail subject to imposition of stringent conditions.

8. Hence, it is directed that the Petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000/- (Rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions:

I) The Petitioner shall also file an affidavit before the Trial Court with regard to indicating there his residential details other details like Aadhar No., Phone No. before the jurisdictional police station & further release of the Petitioner shall be subject to verification of such details as would be furnished by any relative of the Petitioner in the shape of an affidavit.

II) he shall not be involved in any offence of similar nature while on bail;

III) he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever;

IV) he shall not make any default in attending the court during trial on each date without fail;

V) he shall appear before the concerned Police Station once in a fortnight preferably on 'Sunday' in between 10.00 A.M. to 1.00 P.M. till conclusion of the trial.

Violation of any of the terms and conditions shall entail cancellation of bail.

9. It is further directed that the bail granted to the Petitioner be subject to the condition that the court below shall verify the similar criminal antecedent of the Petitioner. In the event the Petitioner is having any similar criminal antecedent under the offences of NDPS Act, this bail order shall automatically stand revoked.

10. BLAPL is accordingly disposed of.

Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge

Anil

Signature Not Verified
Digitally Signed
Signed by: ANIL KUMAR SAHOO
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 28-Oct-2026 18:49:28