IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9662 of 2026

CNR No. ODHC010725452026

Dillip Shah @ Dilip Saha .... ***Petitioner***

Mr. S.K. Zafarulla, Advocate

-versus-

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

Mr. S. Panigrahi, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

17.11.2026

Order No.

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

2. The Petitioner is accused in connection with C.T.(Sessions) Case No.3 of 2022, pending on the file of learned Sessions Judge, Jharsuguda, arising out of **Jharsuguda Sadar P.S. Case No.128 of 2021** for alleged commission of offences under Sections 302/394 of IPC.

3. Learned counsel, on instruction, submits that except the present BLAPL, no other bail applications of the Petitioners 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 BNSS by the learned Sessions Judge, Jharsuguda by order dated 09.09.2026

in the aforementioned case, the present BLAPL has been filed.

5. This is the fifth journey of the Petitioner to this Court. This Court by its order dated 13.09.2024 in BLAPL No.6302 of 2024 considering the nature of materials against the Petitioner, while rejecting the prayer for bail, had referred to the circumstances including the statement of P.W.12-the wife of the deceased and the recovery of blood stained currency notes.

On his subsequent journey, by order dated 11.09.2025 in BLAPL No.4885 of 2025 this Court, referring to the last seen theory and the recovery of one steel knife, was not inclined to entertain his application for bail.

6. Learned counsel for the Petitioner submits that the Petitioner is in custody since 17.07.2021 and in the meanwhile, twenty (20) out of thirty-six (36) witnesses have been examined and as such, the trial is likely to linger. Hence, primarily on the ground of long incarceration, the Petitioner seeks release.

7. Learned counsel for the State opposes the prayer for bail.

8. At this stage, learned counsel for the Petitioner relies on the order of the Apex Court in the case of

Javed Gulam Nabi Shaikh vs. State of Maharashtra and another (in SLP (Crl.) No.3809 of 2024 decided on 03.07.2024).

In this context, he relies on paragraphs-19 to 21 of the said order, which are extracted hereunder;

> "19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.
>
> 20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.
>
> 21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution."

9. The Apex Court has repeatedly asserted that while referring to judgments and relying upon them,

the crucial distinctive features of each judgment in its peculiar factual matrix ought to be considered.

It is trite that long incarceration can be one of the grounds for seeking release. But, the same cannot have any universal application. This Court need not lengthen the shadow of this order by referring to the settled position of law.

In referring to the aforesaid judgment in **Javed Gulam Nabi Shaikh (supra),** learned counsel for the Petitioner is seeking this Court to fall prey to the temptation of mechanical reliance on a judgment.

The background in which, the Apex Court exercised the jurisdiction in the said case, is succinctly stated in paragraph-7 thereof, which is quoted for convenience of ready reference;

> i. The appellant is in jail as an under-trial prisoner past four years;
> ii. Till this date, the trial court has not been able to even proceed to frame charge; and
> iii. As pointed out by the counsel appearing for the State as well as NIA the prosecution intends to examine not less than eighty witnesses. (Emphasized)

10. Learned counsel for the Petitioner also relies on the order of the Apex Court in the case of **Sahil Manoj**

Machare vs. The state of Maharashtra (SLP (Crl.) No.7502 of 2026 decided on 04.05.2026) wherein, the Apex Court has noted thus in paragraph-7;

> "7. Here is a case wherein past almost 4 years, the Petitioner is in jail but not a single witness has been examined." (Emphasized)

11. It is settled principle of interpretation that a judgment ought not to be read as a "Euclid's Theorem".

So far as interpretation of a judgment is concerned, the same is no longer res integra.

Speaking for the Apex Court Hon'ble Mr. Justice S.B. Sinha has devoted an entire chapter in the celebrated judgment of **Islamic Academy of Education v. State of Karnataka**, (2003) 6 SCC 697 wherein, the time tested principle that a judgment has to be read in the factual matrix of each case has been stated in no unambiguous terms.

12. In the light of the rival submissions, this Court is of the considered view that the judgments of the Apex Court cited at the Bar seeking release on the ground of long incarceration, have no application to the factual matrix of the case at hand.

13. Considering the nature of evidence regarding prima facie complicity of the Petitioner on record and

the progress in trial, this court is not able to persuade itself to hold that the Petitioner is entitled to be released on the ground of long incarceration.

Hence, this Court is **not inclined** to entertain this application for bail at this stage.

14. It is needless to state here that the observations made herein are only for the purpose of consideration of the bail application of the Petitioner and ought not to be understood as this Court expressing any view regarding the complicity of the Petitioner, which has to be established in the ongoing trial.

15. Taking into account that the Petitioner is in custody since 17.07.2021 and twenty (20) out of thirty-six (36) witnesses have been examined, learned Trial Court is requested to dispose of the trial expeditiously and it is expected that the State agency shall not contribute in any manner to the delay.

16. Accordingly, the BLAPL stands disposed of.

(V. Narasingh)
Judge

Santoshi
Signature Not Verified
Digitally Signed
Signed by: SANTOSHI LENKA
Designation: Sr. Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 19-Nov-2026 10:38:39