IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3952 of 2026

CNR No. ODHC010832342026

Benudhar Pradhan …. ***Petitioner(s)***

Mr. Devashis Panda, Advocate

-versus-

State of Odisha …. ***Opp. Party(s)***

Mr. A.K. Mohanty, ASC

Mr. Amitav Tripathy, Advocate (Informant)

CORAM:

THE HON'BLE MR. JUSTICE SIBO SANKAR MISHRA

ORDER

Order No. **29.10.2026**

01. 1. Heard.

2. The petitioner is accused in connection with the FIR in Fategarh P.S. Case No. 264 of 2026 corresponding to G.R. Case No. 250 of 2026 pending in the file of learned JMFC, Bhapur for alleged commission of offence under sections 126(2)/296/118(1)/109(1)/ 61(2)/ 303(2)/3(5) of BNS, 2023.

3. The allegation against the petitioner as per the FIR

is that on 04.08.2026 at 11.15 P.M. the complainant Bhimasen Samal S/o- Lt.Panchu Samal of Village-Bhogada, appeared at the police station and alleged that today, i.e on 04.08.2026 at about 01.30 PM he left Kantilo in his discover motor cycle and proceeded towards Bhapur Block. On the way near Baunsabati one black bullet motor cycle being driven by one young person wearing helmet and another pillion rider both wearing black-colored shirts, crossed him and proceeded towards village Rakama. On the way at Rakama pond, they intercepted him. The rider asked him the way to Bhapur block. When he guided them, all of a sudden the pillion rider got down from the motor cycle and with a kati assaulted his right hand, the rider was scolding him as "Maa giha ku Maridia". Then they further assaulted to his left leg, left back side shoulder and right front shoulder and fled away taking his mobile phone. The pillion rider put a mask on his face. Due to enmity he has been assaulted with pre-plan to kill him. Hence, the

FIR.

4. It is undisputed that investigation in the present case is still going on. At this stage, the petitioner has filed the present petition seeking quashing of the FIR on the ground that even if the allegations made against the him in the FIR are taken on their face value, no case is made out against him.

5. It is contended by Mr. Panda, learned counsel appearing for the petitioner, that the allegations contained in the FIR are inherently absurd and inherently improbable. The allegation is that the rider of the Bullet motorcycle disclosed the petitioner's name, stating that the petitioner had sent them with instructions to take away the life of the deceased. Thereafter, the pillion rider assaulted the deceased and, upon his falling to the ground, both the assailants jointly assaulted him. Learned counsel submits that the allegations are so inherently improbable that no prudent person could arrive at a just conclusion that sufficient

grounds exist for proceeding against the petitioner or for implicating him as an accused on the allegation that he had, in concert with the unnamed assailants, committed the offences punishable under Sections 126(2)/296/118(1)/109(1)/303(2) of the Bharatiya Nyaya Sanhita, 2023. It is further contended that none of the witnesses examined by the police under Section 161 Cr.P.C. has stated anything regarding the presence of the petitioner either with the assailants or with the alleged co-conspirators. Several other grounds have also been urged in support of the petition.

6**.** I have perused the documents placed on record along with the petition, as well as the statements of the complainant, Bhimsena Samal, and Muna @ Sunoj Dhal, recorded under Section 180 of the BNSS. A conjoint reading of the statements of these witnesses reveals that both have specifically named the petitioner and attributed to him the overt act of instructing the assailants to commit the crime. It is, however, pertinent

to note that the investigation in the present case is still at a nascent stage. In such circumstances, this Court is not inclined to undertake any detailed examination of the merits of the allegations or assess the evidentiary worth of the materials collected during investigation.

7. This Court is conscious of the well-settled position of law that, at the nascent stage of investigation, this Court is not required to meticulously scrutinise the evidence put forth by the accused in his defence and ascertain its probative value. The inherent jurisdiction under Section 482 Cr.P.C. is to be exercised sparingly, with circumspection and in exceptional circumstances, particularly where the allegations, even if taken at their face value and accepted in their entirety, do not prima facie disclose the commission of an offence or are so inherently absurd and improbable that no prudent person could ever reach a conclusion that sufficient grounds exist for proceeding against the accused. In the midst of investigation this court shall restrain itself from

venturing into the merits of the case by scuttling the due process contemplated under law.

8. The principles enunciated by the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***, reported in ***1992 Supp (1) SCC 335***, and reiterated in a catena of subsequent decisions, makes it clear that the extraordinary power to quash criminal proceedings is intended to prevent abuse of the process of law and to secure the ends of justice. Such power, however, cannot be exercised as a substitute for the ordinary process of criminal trial, nor can it be invoked to undertake an adjudication of disputed questions of fact at the threshold.

9. The Hon'ble Supreme Court also in ***State of Odisha v. Pratima Mohanty,*** reported in ***(2022) 16 SCC 703***, has clarified thus:-

> *"**8.2.** It is trite that the power of quashing should be exercised sparingly and with circumspection and in rare cases. As per the settled proposition of law while examining an FIR/complaint quashing of which is sought, the*

court cannot embark upon any enquiry as to the reliability or genuineness of allegations made in the FIR/complaint. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Normally the criminal proceedings should not be quashed in exercise of powers under Section 482CrPC when after a thorough investigation the charge-sheet has been filed. At the stage of discharge and/or considering the application under Section 482CrPC the courts are not required to go into the merits of the allegations and/or evidence in detail as if conducting the mini-trial. As held by this Court the powers under Section 482CrPC are very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the Court."

10. Mr. Amitav Tripathy, learned counsel entered appearance for the informant and filed Vakalatnama. He has pointed out that the present petition is liable to be dismissed at the threshold only on the ground of suppression. He submitted that the petitioner had earlier approached this Court by filing ABLAPL No. 9749 of 2026 and the Coordinate Bench of this Court vide order dated 10.09.2026 rejected the anticipatory bail application of the petitioner by a detail order. The petitioner challenged the said order before the Hon'ble

Supreme Court by filing Special Leave to Appeal (Crl.) No. 19141 of 2026. The Hon'ble Supreme Court also vide order dated 16.10.2026 rejected the SLP and directed the petitioner to surrender before the court below within three weeks and move application for bail.

11. It is relevant to mention here that while dismissing the anticipatory bail application of the petitioner, the Coordinate Bench of this Court in ABLAPL No. 9749 of 2026 recorded as under:-

> *"23. On a perspicuous analysis of the materials on record, in the light of the law laid down by the Apex Court and having regard to the peculiar factual canvas of the present case, this Court is not persuaded to hold that the petitioner deserves to be ensconced by an order of pre-arrest bail, which is an "exceptional remedy". And it would disturb the scale of balance as envisaged while considering the right of the accused vis-à-vis that of the prosecution to conduct free and fare probe, which is also the right of a victim of the crime."*

12. It is also relevant to mention that the anticipatory bail application of the petitioner is primarily turned down by the Coordinate Bench of this Court not only on merit but also taking into consideration the antecedents of the

petitioner, which is reflecting in paragraph-16 of the order dated 10.09.2026, which reads as under:-

> *"16. The petitioner is admittedly involved in the following cases, which have been set out in the tabular form (submitted by the petitioner).*

SL. No.	P.S. Case No.	Under Section	Case Status
1.	Fategarh P.S. Case No. 71/2012	302/120(B)/34 of IPC	Trial is going on (released on bail)
2.	Fategarh P.S. Case No. 100/2012	341/294//323/506/302/ 34 of IPC	Not charge sheeted as an accused
3.	Fategarh P.S. Case No. 91/2015	341/294/506/379/307/ 34 of IPC	Acquitted
4.	Fategarh P.S. Case No. 75/2016	341/294/506/379/323/307/ 34 of IPC	Not charge sheeted as an accused
5.	Fategarh P.S. Case No. 48/2019	341/294//323/506/34 of IPC R/w 25 Arms Act	FRT submitted
6.	Fategarh P.S. Case No. 62/2012	341/294/323/506/34 of IPC	Acquitted
7.	Fategarh P.S. Case No. 358/2025	132/189(2)/190/329(4) of BNS.	Pending

13. In view of the foregoing, it was incumbent upon the petitioner to disclose the order dated 10.09.2026 passed by this Court, as well as the order dated 16.10.2026 passed by the Hon'ble Supreme Court, in the present matter. It is pertinent to note that the petitioner instituted the present petition on 21.10.2026, seeking quashing of the FIR, subsequent to the dismissal of ABLAPL No. 9749 of 2026 by this Court on 10.09.2026 and Special Leave to Appeal (Crl.) No.

19141 of 2026 by the Hon’ble Supreme Court on 16.10.2026. Thus, the present petition having been instituted after the rejection of the petitioner's prayer for anticipatory bail by this Court as well as by the Hon’ble Supreme Court, it was incumbent upon the petitioner to make a full and candid disclosure of the aforesaid orders in the present proceedings. Such disclosure was not merely a matter of procedural propriety but a necessary requirement for proper and effective adjudication of the matter. When this aspect was specifically brought to the notice of learned counsel for the petitioner, he submitted that, under the Rules of this Court, a petitioner instituting a petition under Section 528 of the BNSS seeking quashing of an FIR was not required to disclose the dismissal of an earlier anticipatory bail application.

14. The aforesaid submission of learned counsel for the petitioner, however, does not accord with the procedure contemplated under Clause 5(2) of Chapter

XVIII (Procedure in Criminal Cases) of the Rules of the High Court of Orissa, 1948. Clause 5(2) thereof reads as follows:-

> *"5.(1) xxx xxx xxx*
>
> *(2) (a) Every petitions for relief on criminal matter shall contain a declaration supported by an affidavit of the applicant himself or his authorized agent stating if, any other application either [under section (430), 482 or 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 or under section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023] or Criminal Revision or a Writ Petition (Criminal) concerning the same case of the Court below is pending or has been disposed of by the High court or any other Court upon such petition being filed either by the applicant or by any party to such proceeding including the accused involved in the case with result thereof if such case is disposed of.*
>
> *(b) In every application for bail presented to the High Court the petitioner shall state whether similar application has or has not been made to the Supreme Court, and if made, shall state the result thereof. The petitioner/applicant shall also mention whether he/she is/was involved in any other criminal case or not. If yes, particulars and decisions thereof to be furnished. An application which does not contain this information shall be placed before the appropriate bench with the necessary information.*
>
> (3) xxx xxx xxx
>
> (4) xxx xxx xxx"

15. In view of the aforesaid provisions, the submission of Mr. Panda, learned counsel for the petitioner, that the petitioner was neither required nor under any obligation to disclose the orders dated 10.09.2026 and 16.10.2026, whereby his application for anticipatory bail was rejected by the Coordinate Bench of this Court and the Hon'ble Supreme Court, respectively, is wholly misconceived and devoid of merit. Such a submission runs contrary to the settled principles governing disclosure and the obligation of a litigant to make full and candid disclosure before a Court of law. Accordingly, on this ground alone, the present petition is liable to be dismissed.

16. Having regard to the aforesaid conduct of the petitioner in deliberately suppressing and withholding the order dated 10.09.2026 passed by the Coordinate Bench of this Court in ABLAPL No. 9749 of 2026, as well as the order dated 16.10.2026 passed by the Hon'ble

Supreme Court in Special Leave to Appeal (Crl.) No. 19141 of 2026, this Court is of the considered view that the petitioner has not approached this Court with clean hands. Such deliberate suppression of material facts not only disentitles the petitioner to invoke the inherent jurisdiction of this Court but also warrants imposition of exemplary costs. Consequently, the present petition is liable to be dismissed with costs of Rs.50,000/- (Rupees Fifty Thousand only).

17. Accordingly, the CRLMC is dismissed with cost of Rs.50,000/- (rupees fifty thousand) to be deposited with the Odisha Chief Minister's Relief Fund.

Ashok

(S.S. Mishra)
Judge

Signature Not Verified
Digitally Signed
Signed by: ASHOK KUMAR JAGADEB MOHAPATRA
Reason: Authentication
Location: High Court of Orissa
Date: 01-Nov-2026 12:27:04