



IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11633 of 2025

(In the matter of application under Section 483 of the BNSS, 2023).

Srinivaschary K.R. @ ... ***Petitioner***
Srinivaschari K.R. @ K.R.
Srinibash Acharya
@ K.R.S Achary

-versus-

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

For Petitioner : ***Mr. S.N. Das, Advocate***

For Opposite Party : ***Mr. M.R. Patra, Addl. PP***

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING & DATE OF JUDGMENT:22.01.2026 (ORAL)

G. Satapathy, J.

1. This is the bail application U/S.483 of the BNSS by the petitioner for grant of bail in connection with Bhuban P.S. Case No.365 of 2025 corresponding to G.R. Case No.355 of 2025 pending in the Court of learned J.M.F.C., Bhuban, for commission of offence punishable U/Ss. 319(2)/ 318(4)/336(2)/338/336(3)/340(2) of



B.N.S. r/w. Sec.66(C)/ 66(D) of I.T. Act, on the main allegation of extracting Rs.63Lakhs from the informant on the threatening of digital arrest.

2. Heard, Mr. Sailaza Nandan Das, learned counsel for the petitioner and Mr. M.R. Patra, learned Addl. PP in the matter and perused the record including the certified copy of the order dated 14.08.2025 passed by the learned JMFC, Bhuban in G.R. Case No. 355 of 2025.

3. No doubt, the allegation leveled against the petitioner demonstrates the seriousness of the accusations, but the documents as produced by the petitioner under Annexure-4 series reveals that the petitioner was in fact issued with a notice U/S.35 of BNSS to appear at 10A.M. on 01.09.2025 before the IIC, Bhuban P.S. at Bhuban which letter was stated to be received by the petitioner on 13.08.2025, however, instead of waiting till 01.09.2025 for appearance of the petitioner, the IO moved to the learned JMFC, Bhuban on 14.08.2025 to issue NBWA against the petitioner and the learned JMFC, Bhuban by way of an order passed on



14.08.2025 issued NBWA against the petitioner. In the sequence of events, it is unknown as to whether the notice to the accused-petitioner on 13.08.2025 and his subsequent undertaking to appear before the Police Station on 01.09.2025 have been brought to the notice of the learned JMFC, Bhuban or not, however, it seems that since the IO has not waited for the scheduled time, the NBWA issued against the petitioner is an affront to the personal liberty of the petitioner and the same appears to have no legal standing/sanction of law, inasmuch as NBWA should be the last resort in a criminal case when issuance of BW would not result in appearance/production of the petitioner before the Court concerned. Once NBWA issued against the petitioner is found to have no sanction of law, the subsequent remand of the petitioner to judicial custody becomes illegal and cannot have approval of law in view of the decision rendered by the Apex Court in ***Directorate of Enforcement vrs. Subash Sharma; 2025 SCC OnLine SC 240***, wherein in a somewhat similar



situation, the Apex Court at Paragraph-8 has held as under:-

*"8. Once a Court, while dealing with a bail application, finds that the fundamental rights of the accused under [Articles 21 and 22 of the Constitution of India](#) have been violated while arresting the accused or after arresting him, **it is the duty of the Court dealing with the bail application to release the accused on bail**. The reason is that the arrest in such cases stands vitiated. It is the duty of every Court to uphold the fundamental rights guaranteed under [Articles 21 and 22](#) of the Constitution."*

4. In view of the aforesaid facts and circumstances and taking into consideration the remand of the petitioner not in consonance with the provision of law and thereby, the subsequent remand being not having sanction of the law, the only consequence as emerges is to grant bail to the accused-petitioner. Hence, the bail application of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.2,00,000/- (Rupees Two Lakhs) only with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin



of the case on such terms and conditions as deem fit and proper by it with following condition:-

*(i) the petitioner in the course of trial shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with and shall cooperate with the trial. **In case the Petitioner fails without sufficient cause to appear in the Court in accordance with the terms of the bail, the learned trial Court may proceed against the Petitioner for offence U/S.269 of BNSS in accordance with law.***

5. Accordingly, the BLAPL stands disposed of.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 22nd day of January, 2026/S.Sasmal*