



IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL Nos. 9883, 9885, 12570 of 2024 & 3926, 3948, 4553 of 2025

(In the matter of applications under Section 483 of the BNS).

Pabana @ Prabhakar Sahu @ ... Petitioners
Pabana Sahu and others
(In BLAPL No. 9883 of 2024)
Juria @ Rajendra Sahu
(In BLAPL No. 9885 of 2024)
Sudam Mallik
(In BLAPL No. 12570 of 2024)
Surendra Mallik and another
(In BLAPL No. 3926 of 2025)
Balaram Bisoyi
(In BLAPL No. 3948 of 2025)
Purna Chandra Sahu and
another
(In BLAPL No. 4553 of 2025)

-versus-

State of Odisha ... Opposite Party

For Petitioners : Mr. B.K. Raj, Advocate
(In BLAPL Nos. 9883 & 9885 of
2024)
Mr. R.N. Rout, Advocate
(In BLAPL No. 12570 of 2024)
Mr. A. Tripathy, Advocate
(In BLAPL No. 3926 of 2025)
Mr. S.K. Pradhan, Advocate
(In BLAPL Nos. 3948 & 4553 of
2025)

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

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING : 11.12.2025

DATE OF JUDGMENT: 06.01.2026



G. Satapathy, J.

1. Since these six bail applications arise out of one and same case record, the same are heard together and disposed of by this common order with the consent of the learned counsel for the parties.

2. These are six bail applications U/S.483 of Bharatiya Nagarik Suraksha Sanhita (in short, "BNSS") by the petitioners for grant of bail in connection with K. Nuagaon PS Case No.252 of 2024 corresponding to ST Case No. 467 of 2024 (GR Case No.383 of 2024) being charge sheeted for commission of offences punishable U/Ss.61(2)/110/274/123/275/103(1)/118/3(5) of BNS r/w Sections 52(a)/59/62 of the Odisha Excise Act, 2008 pending in the file of learned 1st Additional Sessions Judge, Berhmapur, Ganjam and learned JMFC, Patrapur (BLAPL Nos. 9883 & 9885 of 2024) respectively.

3. The present case arises out of an FIR lodged by SI Ranjit Mohapatro of K.Nuagaon PS on 20.08.2024 at 2AM that on 9.30PM on 19.08.2024 he received information from the local source that around 15 and some more persons of village Jenapur, Maundapur &



Karabalua have been admitted to CHC, Chikiti and undergoing treatment for consumption of spurious liquor and on enquiry, he found Pradeep Behera, Kalu Sethy, Bulu Sethy, Siba Sethy, Dayanidhi Sahu, Jura Behera, Kama Behera of village Jenapur and Jena Sethy of village Maundapur, Bairi Sethy, Bhubani Sethy, Khalia Sethy of village Karabalua to have consumed liquor by purchasing it from petitioner Baya Sahu and his two sons Bapini Sahu and Pabana Sahu. Similarly, petitioner Rabi Sahu and his brothers Purna Sahu and Juria Sahu being assisted by village Headman-cum-petitioner Balaram Bisoyi had also sold liquor to some other persons, but the person consuming liquor had become serious and they felt head-reeling and severe stomach pain and vomited frequently and, therefore, they had been brought to CHC, Chikiti individually by their family members for their treatment, however, after preliminary treatment, all the above referred persons have been referred to MKCG, MCH, Berhampur for their better treatment. On this report, K. Nuagaon PS Case No.252 of 2024 was registered and the matter was investigated into, but



unfortunately five persons namely Pradip Behera, Laxman Behera, Baya @ Bairi Sethy, Jura Behera and Lokanath Behera have expired for consumption of spurious liquor. On completion of investigation, charge-sheet was submitted against the petitioners and some others.

4. Heard, Mr. Bikram Keshari Raj, learned counsel for the petitioners in BLAPL Nos.9883 & 9885 of 2024; Mr. Rajendra Narayan Rout, learned counsel for the petitioner in BLAPL No.12570 of 2024; Mr. Amitav Tripathy, learned counsel for the petitioners in BLAPL No.3926 of 2025; Mr. Sanjay Kumar Pradhan, learned counsel for the petitioners in BLAPL Nos.3948 & 4553 of 2025 and Mr. M.R. Patra, learned Additional Public Prosecutor in these matters and perused the record.

4.1. In the course of argument, all the counsels appearing for the respective petitioners have submitted in equal tones that the deceased having died due to some other reason, but not for consuming any liquor which was confirmed by the Forensic Report of the viscera of the deceased as submitted by the CFSL, Kolkata and the petitioners have had no role in the death of the deceased



persons and they being innocent may kindly be granted bail. In addition, learned counsel for the petitioner Balaram Bisoyi has submitted that the petitioner Balaram Bisoyi has no role either in selling the liquor to anybody or in any way in this case, but he having entangled in this case by falsely showing him to be assisting co-accused petitioners for selling the liquor, he may kindly be granted bail.

4.2. On the other hand, Mr. M.R. Patra, learned Additional Public Prosecutor, however, by placing strong reliance on the report of the concerned doctor has submitted that the cause of death of the deceased could be probably due to multi organ failure and as a result of ingestion of certain toxic and noxious substances and the ammonium nitrate and ammonium sulphate found in the samples of spurious liquor seized from the house of the petitioner Baya Sethy, a prima facie case is made out against the petitioners for selling spurious liquors to general public and, thereby, allowing the deceased persons to consume such spurious liquor at cheap price and, therefore, the petitioners being found responsible for



the death of five innocent persons, their bail applications may kindly be rejected. Mr. Patra has also submitted that the petitioner Balaram Bisoyi having provided protection to co-accused for selling spurious liquor is equally responsible for the death of the deceased and, therefore, he being equally responsible, his bail application may kindly be rejected.

5. After having considered the rival submissions upon perusal of record, this Court before dwelling upon the facts involved in the present case reminds that the statutory provisions of bail confers wide discretion on the Court either to grant or refuse bail to the applicant, but such exercise of discretion should not be arbitrary or de-hors the basic principles laid down by different constitutional Courts in a catena of decisions. The parameters under which discretion has to be considered has been well elucidated by Apex Court in ***Prasanta Kumar Sarkar Vrs. Ashis Chatterjee & Anr : (2010) 14 SCC 496***, wherein the Apex Court in Paragraph 9 has held as under:-



"9. *However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:*

(i) Whether there is any prima facie or reasonable ground to believe that the Accused had committed the offence;

(ii) Nature and gravity of the accusation;

(iii) Severity of the punishment in the event of conviction;

(iv) Danger of the Accused absconding or fleeing, if released on bail;

(v) Character, behavior, means, position and standing of the Accused;

(vi) Likelihood of the offence being repeated;

(vii) Reasonable apprehension of the witnesses being influenced; and

(viii) Danger, of course, of justice being thwarted by grant of bail."

Additionally, in ***Jagjeet Singh & Ors. Vrs. Ashish Mishra & Ors.; 2022 9 SCC 321***, while emphasizing the duty of the Court and relevant consideration for bail, the Apex Court at Paragraphs 27 and 33 has held as under:-

"27. *We may, at the outset, clarify that power to grant bail under Section 439 of the Cr.P.C., is one*



of wide amplitude. A High Court or a Sessions Court, as the case may be, are bestowed with considerable discretion while deciding an application for bail. But, as has been held by this Court on multiple occasions, this discretion is not unfettered. On the contrary, the High Court or the Sessions Court must grant bail after the application of a judicial mind, following well-established principles, and not in a cryptic or mechanical manner.

33. Before dealing with the case at hand, we may, at the cost of repetition, emphasise that a Court while deciding an application for bail, should refrain from evaluating or undertaking a detailed assessment of evidence, as the same is not a relevant consideration at the threshold stage. While a Court may examine prima facie issues, including any reasonable grounds whether the Accused committed an offence or the severity of the offence itself, an extensive consideration of merits which has the potential to prejudice either the case of the prosecution or the defence, is undesirable. It is thus deemed appropriate to outrightly clarify that neither have we considered the merits of the case nor are we inclined to comment on the evidence collected by the SIT in the present case."

6. In considering the case of the petitioners on the backdrop of the principle laid down by the Apex Court in the decisions referred to above, it is quite clear that detail analysis of evidence and meticulous examination of documents on merit should be avoided at the time of consideration of bail, but at the first instance, the Court



has the duty to consider prima facie case or reasonable ground to believe that the serious allegations levelled against the accused constitute the commission of offences or not. In this case, it is disclosed in the charge-sheet that the deceased persons had been admitted to hospital after consuming liquor stated to be spurious by purchasing it from some of the petitioners and eventually losing their lives. Further, there is allegation against the petitioners Sudam Mallik, Surendra Mallik and Rama Mallik for manufacturing and supplying liquors to co-accused persons.

7. Besides, the gravity of accusations is evident from the death of five innocent persons in this case. It is also alleged that liquors were seized from the house of co-accused Baya Sahu, Rabi Sahu and other co-accused persons. It is also stated in the charge-sheet that urea which is a fertilizer has been recovered from the house of co-accused. It is no doubt advanced for the petitioners that the viscera reports of the deceased persons as submitted by the CFSL, Kolkata do not reveal the presence of any poisonous and toxic substances/drugs,



but the CE report of the sample collected from the seized liquors from the house of the co-accused Baya Sethy reveals the presence of ammonium nitrate and ammonium sulphate and it is opined by the doctor conducting PM report that such compounds can cause death of the deceased by causing multi organ failure, however, this Court does not consider it proper to enter into the arena of analysis of the reports submitted by the CFSL, Kolkata and SFSL, Rasulgarh, Bhubaneswar together with the opinion of the doctor at this stage, which is impermissible at the time of consideration of bail. What is relevant at this stage is that five persons suffered death and some persons suffered illness after consuming liquor sold by the co-accused persons and there is allegation against the petitioners for either selling the liquor to some of the villagers without any authority or supplying the same to vendors-cum-co-accused persons for selling it. On the other hand, there is allegation against the petitioner Balaram Bisoyi for assisting some of the co-accused to sell liquor as a village head man, but there is no direct allegation against him



for selling any liquor to the villagers. Besides, co-accused petitioners Bapini Sahu, Baya Sahu, Juria @ Rajendra Sahu and Rabi Sahu are having criminal antecedents in matter relating to ID liquor, which assumes significance in the present context of facts. Besides, number of other persons had also been admitted to hospital after consuming liquor by allegedly purchasing it from some of the petitioners. Apart from the aforesaid facts, none of the petitioners are having any license or authority to sell any liquor.

8. In view of the discussions of facts and considering the role of each of the petitioners together with tragic death of five innocent persons and number of persons suffering from illness after consuming liquor allegedly sold by some of the petitioners and taking into account the impact of death of innocent villagers after consuming liquor on the society and trial having not yet commenced, it would not be proper to grant bail to the persons who are allegedly selling or supplying the liquor, but there being no direct material against the petitioner Balaram Bisoyi for selling liquor to any of the villagers



and he having no criminal antecedent of similar nature and taking into account the only allegation against him for assisting co-accused in selling the liquor, but not being clarified as to the manner in which he was assisting the co-accused, this Court considers his case positively.

9. In the result, while being inclined to grant bail to petitioner Balaram Bisoyi in BLAPL No.3948 of 2025, this Court does not consider it proper to grant bail to rest of the petitioners namely Pabana @ Prabhakar Sahu @ Pabana Sahu, Bipini Sahu & Baya Sahu in BLAPL No.9883 of 2024; Juria @ Rajendra Sahu in BLAPL No.9885 of 2024; Sudam Mallik in BLAPL No.12570 of 2024; Surendra Mallik and Rama Mallik in BLAPL No.3926 of 2025 and Purna Chandra Sahu & Rabi Sahu in BLAPL No.4553 of 2025.

10. Hence, the bail application of the Balaram Bisoyi in BLAPL No.3948 of 2025 stands allowed and he be allowed to go on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand) 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- Balaram Bisoyi in the course of trial shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with. **In case the Petitioner-Balaram Bisoyi 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 BNS, 2023 in accordance with law.***

11. Accordingly, all these BLAPL Nos.9883, 9885, 12570 of 2024 & 3926, 3948, 4553 of 2025 stand disposed of.

**(G. Satapathy)
Judge**

*Orissa High Court, Cuttack,
Dated the 6th day of January, 2026/Kishore*