IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.6986 of 2026
CNR No. ODHC010468102026

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

Srikanta Dhadaka … ***Petitioner***

-versus-

State of Odisha … ***Opposite Party***

For Petitioner : ***Mr. S.K. Rout, Advocate***

For Opposite Party : ***Mr. C. Mohanty, Addl. PP***

CORAM:
JUSTICE G. SATAPATHY

DATE OF HEARING & DATE OF JUDGMENT:03.09.2026 (ORAL)

G. Satapathy, J.

1. This is a bail application U/S.483 of BNSS by the petitioner for grant of bail in connection with Pottangi PS Case No.138 of 2025 corresponding to TR Case No.130 of 2025 pending in the Court of learned Addl. Sessions Judge-cum-Special Judge, Koraput for commission of offences punishable under Sections 20(b)(ii)(C) of NDPS Act r/w Sec.25(1-B)(a) of Arms Act, on the main allegation of transporting 51Kgs and 400grams of Contraband Ganja in a Ford Fiesta Car bearing Regd. No.OR-02-BR-8908.

2. Heard Mr. Sangram Keshari Rout, learned counsel for the petitioner and Mr. C. Mohanty, learned Addl. PP in the matter and perused the record.

3. Admittedly, the petitioner has taken the plea of non-compliance of Sec.58 of BNSS r/w Art.22(2) of the Constitution of India for not being produced before the magistrate within twenty-four hours of his arrest excluding the time necessary for journey from the spot to the Court of Magistrate. There is no quarrel over the position of law that an accused cannot be detained in custody beyond twenty-four hours without the authority of the magistrate and such twenty-four hours exclude the time necessary for journey from the place of arrest to the Court of magistrate. On a careful perusal of the impugned order in the present case, it is found that the learned Court in seisin over the matter has excluded 1.10 hours towards time for medical examination of the accused and 4.10 hours for the journey from Pottangi PS to Court at Jeypore and accordingly, calculated the detention of the accused-petitioner for 22.15hours.

4. Article 22(2) only provides for exclusion of time necessary for the journey from the place of arrest to the Court of magistrate and it does not provide any relaxation for the transit of the accused-petitioner for medical examination. Even

otherwise, the time that has been considered by the learned trial Court for taking the accused to the Court by leaving the Police Station is 11.50AM, but the learned counsel for the petitioner has produced the certified copy of the command certificate issued to C/347 G. Khilo and OAPF/09 D. Badanaik for taking the accused-petitioner to Court from police station of Pottangi and the time superscribed therein is 2.00PM in the afternoon and thereby, the calculation of the learned Court in seisin over the matter is erroneous and on the basis of these admitted documents, if the transit time of the accused-petitioner is considered, it should be considered two hours since the accused-petitioner was allowed to leave the police station at 2.00PM and he along with escort staff reached the Court at 4.00PM and therefore, the detention of the accused-petitioner would be 22.15hours + 2hours + 1.10hours which would be 25.25hours and adding 15minutes time to it which was not taken into consideration by the Court in seisin over the matter, since the medical examination of the petitioner was concluded at 11.35AM, but it is shown that the accused-petitioner was taken to Court at 11.50AM, the total time of detention of the accused-petitioner would come around 25.40hours. It is, therefore, as clear as noon day that the

accused-petitioner was not produced within 24hours and thereby, his fundamental right has been violated.

5. Once fundamental right of an accused to be produced before the Court of Magistrate within 24hours is violated, the arrest would not only become illegal, but it would be vitiated and the subsequent remand thereafter would also be vitiated. Once the arrest and remand are vitiated, the only course left upon to the Court is to grant bail to the accused.

6. In the result, the bail application of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.1,00,000/- (Rupees One Lakh) 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.

7. Accordingly, the BLAPL stands disposed of. A soft copy of this order be immediately communicated to the concerned Court, who shall afterwards communicate the same to the concerned Jail through e-mail for reference.

(G. Satapathy)
Judge

Signature Not Verified
Digitally Signed
Signed by: JAYAKRUSHNA DASH
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 03-Sep-2026 19:54:33

Orissa High Court, Cuttack,
Dated the 03rd Day of September, of 2026/ Jayakrushna