



IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.13706 of 2025

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

Subash Mohapatra ... ***Petitioner***

-versus-

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

For Petitioner : ***Mr. N.K. Singh, Advocate***

For Opposite Party : ***Mr. P.S. Nayak, Specially engaged counsel***

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:12.05.2026(ORAL)

G. Satapathy, J.

1. This is an application U/S.483 of the BNS by the petitioner for grant of bail in connection with Lalbag PS Case No. 387 of 2025 corresponding to GR Case No.853 of 2025 pending in the Court of learned SDJM(S), Cuttack for commission of offence punishable U/Ss. 319(2)/318(4)/336(2)/340(2) of BNS.

2. The allegation against the petitioner is that the petitioner having no license issued from any Bar Council



to practice in any Court has posed himself as a lawyer and conducted an election petition before this Court by impersonating himself as an advocate, but later on the enrolment number as furnished by the petitioner in the Vakalatnama was found to be in the name of Gitanjali Sharma. This is the basis on which the FIR was lodged in this case.

3. In the course of hearing Mr. Nitesh Kumar Singh, learned counsel for the petitioner submits that although the offences alleged against the petitioner in the FIR appears to be punishable not beyond seven years, but he was not issued with any notice U/S. 35(3) of the BNSS and there was blatant violation of the principles laid down in ***Arnesh Kumar Vrs. State of Bihar and Another; (2014) 8 SCC 273.*** Mr. Singh further submits that even after registration of the case and taking the petitioner into custody for not having the enrolment number for practicing in the Court, the petitioner at best could have been implicated for offence U/S.45 of Advocates Act which is a special legislation and can prevail over the other legislation, but the said



offence prescribes maximum punishment of imprisonment for six months, however, the petitioner was taken into custody in violation of statutory rules and law and petitioner having been kept in confinement since last five and half months and charge-sheet having already been submitted in the meantime, the petitioner's custody should not be extended. Mr. Singh further submits that the power to arrest is one thing, but the necessity to arrest is a separate thing and in all the cases, there need not to be any arrest of the accused, more particularly when the petitioner like in this case is not a flight risk and he has deep roots in the society and there is hardly any chance of his absconding, which is evident from the petitioner's arrest from his own house, even after registration of the FIR and thereby, the petitioner is also entitled to bail on that score. Further, Mr. Singh by highlighting the bottom part of the check list as annexed in the charge sheet submits that the police has not issued any notice as contemplated U/S.35(3) of BNSS against the petitioner by showing the offences alleged against the petitioner to be for offences



U/S.338 of BNS & other offences which are not punishable beyond seven years and therefore, the petitioner in all fairness is entitled to bail. On the aforesaid submissions, Mr. Singh prays to grant bail to the petitioner.

3.1. On the other hand, Mr. Partha Sarathi Nayak, learned specially engaged counsel for this case submits that this Court has to consider the circumstances under which the FIR in this case has been registered against the petitioner because the petitioner despite being provided with opportunities to produce his enrolment number and license, failed to do so and later on he was found to be not an advocate, but he was conducting the election case before this Court by impersonating himself as an advocate by showing the enrolment number of another person in the Vakalatnama, but when the petitioner after being provided with opportunities could not produce any valid license to practice in a Court, a co-ordinate Bench of this Court has directed for lodging of the FIR against the petitioner and the circumstances that compelled the Court to register the FIR against the



petitioner is also an important aspect to be considered in this bail application. Mr. Nayak, further submits that the petitioner has nine criminal antecedents to his credit and he and his associates were instrumental in registering 80 cases against different persons for adopting arm twisting method to obtain certain privileges and this conduct of the petitioner is also an important issue to be considered in his bail application, but the petitioner has never disclosed his criminal antecedents in his bail application and therefore, he being guilty of material suppression is not entitled to the discretionary relief of bail. Mr. Nayak while praying to reject the bail application of the petitioner also relies upon the decision in ***Zeba Khan Vrs. State of UP and others; 2026 SCC OnLine 188.***

4. After having considered the rival submissions upon perusal of record, it appears from the FIR that a co-ordinate Bench of this Court while directing for registration of FIR against the petitioner has inter alia observed the following in its order dated 12.09.2025 passed in IA No.152 of 2024 arising out of ELEPET No.29 of 2024 which reads as under: -



"11. Having perused the Investigation Report submitted by the IIC, Lalbag Police Station, Cuttack UPD and the documents appended thereto, as well as the sequence of orders passed by this Court from time to time in this disposed of case, it is emerged that, despite repeated opportunities and specific directions issued by this Court to produce a valid Enrolment Certificate, Dr. Subash Mohapatra failed to do so and continued to represent the Election Petitioner as an Advocate in ELPET No.29 of 2024. Significantly, pursuant to the direction of this Court, the Bar Council of Delhi, upon verification of its records, reported that the enrolment number relied upon by Dr. Mohapatra, i.e., D/718/2001, bears the name of one Ms. Geetanjali Sharma and not in his name. Despite this, Dr. Mohapatra persisted in asserting that the said enrolment number belongs to him, attributing the discrepancy to be a purported technical glitch. Such conduct of Dr. Mohapatra is a deliberate attempt to mislead this Court, thereby interfering with the due course of judicial proceedings and obstructing the administration of justice. Accordingly, this Court is of the opinion that the said acts of Dr. Subash Mohapatra prima facie constitute criminal contempt within the meaning of Section 2(c)(ii) and (iii) of the Contempt of Courts Act, 1971.

12. Keeping in view the statutory mandate enshrined under Section 18 of the Contempt of Courts Act, 1971, this Court deems it appropriate to direct the Registry to place the records of the present case, including the FIR, case diary, and charge-sheet submitted by the Investigating Officer, before Hon'ble the Chief Justice for kind perusal and necessary action.

13. However, as Dr. Mohapatra still takes a stand before this Court that because of some



technical glitch such incorrect information has been furnished by the Bar Council of Delhi and his application dated nil, which was allegedly sent through speed post on 10.05.2025 for reissuance of certificate of enrollment is still pending for consideration before the Bar Council of Delhi, in such circumstances, this Court is of the considered view that a thorough, independent and impartial investigation is warranted to unearth the truth. Accordingly, the Registrar(Judicial), High Court of Orissa is directed to lodge an FIR before the Inspector-In-Charge (IIC), Lalbag Police Station in this regard immediately with a copy of this Order, who shall register the said FIR and proceed further in accordance with law and investigate the authenticity of the Enrolment No.D-718/2001 registered in Bar Council of Delhi as well as the claim made by Dr. Mohapatra in the said regard and conclude the investigation at the earliest preferably, within a period of three months from the date of registering the FIR. Apart from taking appropriate legal action, if so required, copy of the final form, if any, shall be submitted to the Registrar (Judicial) of this Court, enabling this Court to pass appropriate order under the Contempt of Courts Act, 1971, if so required.

14. *The Registry is directed to hand over all the relevant documents to the Investigating Officer, including the copy of the letter with enclosures received by the Registry from the Bar Council of Delhi in terms of the order dated 12.05.2025 of this Court, so also copy of the Affidavit dated 10.05.2025 filed by Dr. Mohapatra before this Court on 12.05.2025, to facilitate the investigation. A copy of this order also be sent to the Secretary, Bar Council of Delhi, New Delhi for information and necessary action.*



15. *It is made clear that, this Court has not expressed any opinion regarding the claim of Dr. Subash Mohapatra that Enrolment No.D-718/2001 belongs to him."*

5. The circumstances under which this FIR has been registered against the petitioner and the allegation therein really depicts a serious allegation against the petitioner for not only conducting a case by impersonating himself as an advocate, but also for practicing fraud upon the Court and the same is a crime against society. Besides, in the course of hearing of this bail application, the learned State counsel provided the antecedents of the petitioner in the form of a letter/communication addressed to the learned Advocate General by the IG of Police, CID, CB Cuttack which was stated to be submitted in CRLMP No.133 of 2016 after an enquiry conducted by the Addl. SP, CID CB, Cuttack in terms of the order passed by another co-ordinate Bench of this Court and such letter/communication as provided by the learned State counsel which is taken on record, reveals the following criminal antecedents of the petitioner:-



(i) UPD, Bhubaneswar, Khandagiri PS Case No.400 of 2015 U/S.294/506/34 of IPC.

(ii) Kanas PS Case No.93 of 2017 U/S.294/323/341/354/494/506/34 of IPC and 25 of Arms Act.

(iii) UPD, Bhubaneswar, Chandrasekhar PS Case No.479 of 2017 U/S.500/509/120-B/34 of IPC r/w Sec.67 of IT Act.

(iv) Rourkela, Chhend PS Case No.91 of 2021 U/S.498-A/323/506/34 of IPC and Sec.4 of DP Act.

(v) UPD Bhubaneswar, Mahila PS Case No.71 of 2021 U/S.341/323/506/307 of IPC.

(vi) Chhatisgarh, Raipur Mahila PS Case No.41 of 2008

(vii) Chhatishgarh, Raipur, Rajendra Nagar PS Case No.22 of 2009 U/S.420/494/34 of IPC.

(viii) Gadisagada PS Case No.15 of 2011 U/S.494/109/406/498/34 of IPC filed by Smt. Charulata Mohapatra w/o- Subash Chandra Mohapatra.

6. In the aforesaid communication, it is also stated that the petitioner has initiated 11 criminal cases against different persons and out of such 11 cases; the police has submitted final reports in six cases as "False", "No Clue" and "Insufficient Evidence". On the other hand, the petitioner appears to have not disclosed his criminal antecedents in his bail application, but when it



was submitted by the State counsel with regard to criminal antecedents of the petitioner, Mr. Singh, learned counsel for the petitioner only submits that he has got no instruction with regard to all the cases registered against the petitioner, but he knows about one case. Be that as it may, it is the duty of the litigant to disclose all the relevant facts including the criminal antecedents in his bail application inasmuch as the petitioner should be aware of the cases registered against him. Even otherwise, when the petitioner has not disclosed his criminal antecedents, it is considered appropriate to refer to the decision of the Apex Court in ***Munnesh Vrs. State of Uttar Pradesh; 2025 SCC OnLine SC 1319***, wherein, the Apex Court at Paragraph 9 of the decision has held as under: -

"9. xx xx xx, since the petitioner has suppressed material facts with regard to his involvement in criminal cases, he is not entitled to the discretionary relief of bail. xx xx"

7. This Court is also equally alive with the principles settled by the Apex Court in ***Zeba Khan(supra)*** which is relied on by the learned counsel for the State; wherein in a somewhat similar situation,



where the petitioner accused therein was allegedly found to be appearing in Court as an Advocate without having any license to practice in the Court and conducting cases, but successfully applied for bail before the High Court on the aforesaid accusation by not disclosing his criminal antecedents in the bail application, the Apex Court while cancelling his bail has inter alia observed the following in Paragraph Nos.42, 43, 47 & 48:-

*"42. It has been consistently emphasized by this Court that an accused or applicant seeking bail is under a solemn obligation to make a fair, complete and candid disclosure of all material facts having a direct bearing on the exercise of judicial discretion. **Any suppression, concealment or selective disclosure of such material facts amounts to an abuse of the process of law and strikes at the very root of the administration of criminal justice.***

*43. In the present case, Respondent No. 2 deliberately concealed his criminal antecedents before the High Court, both in the petition for quashing FIR as well as in successive bail applications. Even before this Court, only partial disclosure was made in the counter-affidavit, despite the existence of multiple criminal cases on record. **This conduct cannot be viewed as an isolated lapse but reflects a growing and disturbing trend of accused persons securing discretionary relief by suppressing material facts.***

47. As repeatedly observed by this Court, bail applications are examined at multiple stages - from the trial Court to the High Court and ultimately this Court - where courts are often constrained to take a prima facie view on incomplete or selectively



presented records. **Non-disclosure of material aspects such as criminal antecedents, prior bail rejections, duration of custody, compliance with constitutional and statutory safeguards, and the progress of trial may result in the unwarranted grant of bail**, or conversely, the prolonged incarceration of accused persons despite substantial custody having already been undergone.

48. Thus, this Court is of the view that **every petitioner or applicant seeking bail, at any stage of proceedings, is under an obligation to disclose all material particulars, including criminal antecedents** and the existence of any coercive processes such as issuance of non-bailable warrants, declaration as a proclaimed offender, or similar proceedings, duly supported by an affidavit, so as to promote uniformity, transparency and integrity in bail adjudication."

8. Even otherwise, coming to the submission as advanced by Mr. Singh, learned counsel for the petitioner, it appears that the petitioner is alleged to have committed offences U/S. 319(2)/318(4)/336(2)/340(2) of BNS, but the maximum punishment prescribed for offence U/S. 338 of BNS is imprisonment for life. Besides, even if the submission as advanced for the petitioner for not issuing notice is concerned, it is highlighted by Mr. Nayak that the police issued notice on 16.10.2025 to produce certain documents, but it was submitted that no such document was produced. This Court is also alive with the principle that has been



highlighted by Mr. Singh that existence of power to arrest is one thing, but necessity to arrest is another thing, however, when there appears allegation against the petitioner for not co-operating the investigation or joining the investigation, the police have reason to arrest the accused. Further, in response to the submission as advanced by Mr. Singh that no prima facie offence is made out against the petitioner, it appears that "the very observation and direction of the coordinate Bench of this Court for registration of FIR against the petitioner who after being provided with opportunities failed to produce his valid Enrolment Certificate and continued to represent the election petitioner as an advocate by relying upon the enrolment number *D/718/2001* which later reported by Bar Council of Delhi to be in the name of *Ms. Geetanjali Sharma*" itself negates such submission that there is no prima facie case against the petitioner. In the aforesaid facts and circumstances and taking into account the manner and circumstance of commission of alleged offences and keeping in view the non-disclosure of criminal



antecedents by the petitioner in his bail application, which is considered to be a material suppression and taking into account the law laid down by the Apex Court in ***Munnesh(supra) and Zeba Khan (supra)***, this Court is not inclined to grant bail to the petitioner.

9. In the result, the bail application of the petitioner stands rejected. Accordingly, the BLAPL stands disposed of. A soft copy of this order be immediately transmitted to the Court in seisin over the matter for reference.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 12th day of May, 2026/Jayakrushna*