



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.413 of 2003
CNR No.ODHC010003972003

In the matter of an application under Section 401 of
Cr.P.C.

Kalia Jena ***Petitioner***

-versus-

State of Orissa ***Opposite Party***

For Petitioner : Ms. Subhasmita Pattanaik
(Amicus Curiae)

For Opposite Party : Mr. S. Panigrahi, ASC

CORAM:
JUSTICE V. NARASINGH

DATE OF HEARING & JUDGMENT: 03.08.2026

V. Narasingh, J. Heard learned counsel for the
Petitioner and learned counsel for the State.

1. This Criminal Revision has been filed assailing
the judgment dated 29.04.2003 passed by the
learned Addl. District and Sessions Judge (Fast Track
Court), Bhadrak, in Criminal Appeal No.13 of 1995,



affirming the judgement of conviction and sentence dated 08.03.1995 passed by the learned Asst. Sessions Judge, Bhadrak, in S.T. Case No. 36/45 of 1994 qua the Petitioner for the commission of offence under Section 324 of IPC, directing him to undergo R.I. for a period of one year and for the commission of offence under Section 9-B(1)(b) of the India Explosives Act, 1884 (hereinafter referred to as 'Act, 1884') to undergo R.I. for period of six months with both the sentences to run concurrently.

2. The case of the prosecution, in brief, is that on 22.01.1993 at about 8.30 P.M. while Bishnu Chandra Jena (informant- P.W.1) and one Suresh Chandra Mohaptrata (P.W.2) were returning from Dhamnagar Bazar after closing the shop in a self-driven rickshaw. As P.W.2 was a person with disability, the informant assisted him by pushing the rickshaw from behind. When they reached the canal embankment near village Dakhinbad, the Petitioner allegedly threw two



bombs successively. One bomb struck the informant's left leg causing burning injuries, while the other hit the rear of P.W.2's rickshaw and both exploded. As a result, the informant sustained bleeding injuries and his lungi and Teri cotton full shirt were burnt in places. P.W.2's rickshaw was also damaged. The informant had seen the Petitioner when he threw the bombs after which he fled away. On hearing the informant's cries, nearby people reached the spot, and the informant narrated the incident to them. Thereafter, accompanied by P.W.2 and Saroj Mohaptra (P.W.3), the informant lodged an FIR at Dhamnagar Police Station. Thereafter, upon completion of investigation a charge-sheet was filed under Section 324 of IPC and Section 9-B (1)(b) of the Act, 1884.

3. To drive home the charge, the prosecution examined 7 witnesses, of whom P.W.1, the informant, P.W.2 is one of the eye-witnesses to the said



occurrences, P.Ws 3, 4 and 6 are post occurrence witnesses, P.W.5 is the doctor and P.W.7 is the I.O. Several documents exhibited and marked as Exts.1 to 10 and explosive materials seized under Ext.6 is marked as M.O.I.

Though no documentary evidence was adduced on behalf of the defense, one defense witness was examined as D.W.1.

4. It is apt to note that the Ext.9, is the forwarding report for chemical examination of the seized materials, to find out whether it contained remnants of the explosive substances and Exhibit.10 is the corresponding report. Apart from these, eight other documents were exhibited on behalf of the prosecution.

One defense witness was adduced as D.W.1 on behalf of the defense. The plea of the defense was one of false implication.



5. Taking into account the evidence on record, the Trial Court convicted the Petitioner under Section 324 of the IPC, sentencing him to undergo R.I. for a period of one year and for the commission of offence under Section 9-B(1)(b) of the Act, 1884 to undergo R.I. for period of six months with both the sentences to run concurrently.

On appeal being preferred, the Appellate Court did not find any infirmity in the appreciation of evidence and accordingly affirmed the conviction as well as the sentence imposed. Assailing the same, the Petitioner is before this Court.

6. It is the submission of the learned Amicus Curiae, Ms. Pattanaik that the appreciation of the evidence by the Trial Court as well as the Appellate Court is ex facie perverse. The Courts below failed to appreciate the motive for falsely implicating the Petitioner and on a bare perusal of the deposition of the P.W.1, the injured and it seems that the



investigation was performed in as much as the alleged torn clothes of the said injured was never sent for chemical examination and there was a brazen attempt on behalf of the prosecution to not place the truth before the Court and the same having escaped the scrutiny of the Trial Court as well as the Appellate Court, the appreciation of evidence on the said count being perverse, the matter merits interference by this Court even while exercising its revisional jurisdiction.

7. Learned counsel for the State on the other hand, opposes the prayer for pre-arrest bail and restates the outlines for exercising revisional jurisdiction and submits that this Court does not fall under the exception, enabling the exercise of such jurisdiction and as such the matter does not merits consideration.

8. On a close scrutiny of the evidence of P.W.1 as well as that of the I.O. (P.W.7) and the appreciation of the learned Courts below relating to



the forwarding report-Ext.9 and the chemical examination report-Ext.10, this Court is not persuaded to hold that there has been perverse appreciation of evidence on record by the learned Courts below so as to warrant interference by the learned Trial Court.

9. Considering the materials on record and also taking into account the report that the Petitioner does not have any criminal proclivity as per the communication received from the concerned I.I.C. by the Amicus Curiae and that the incident happened on 22.01.1993, in the light of the judgment of the Apex Court in the case of ***Chellammal and anr. V. State represented by the Inspector of Police, 2025 SCC OnLine SC 870***, this Court is persuaded to hold that the benefit of the P.O. Act can be extended to the Petitioner, since ex facie the offence does not suffer from the disqualification as envisaged under Section 4(1) of the P.O. Act.



10. Accordingly, the benefit of the P.O. Act is extended and this Court directs that the Petitioner be released on probation under Section 4 of the P.O. Act, on conditions to be settled by the Trial Court.

10-A. In the peculiar facts and circumstances of the case at hand, the imposition of fine is set aside.

11. The Criminal Revision, along with I.As, if any, accordingly stand disposed of.

12. The fees of the learned Amicus Curiae shall be fixed as per the schedule adopted by the Legal Services Authority, High Court of Orissa, for conducting criminal cases in this Court. Such fees shall be disbursed on being moved.

**(V. Narasingh)
Judge**

*Orissa High Court, Cuttack,
Dated the 3rd August, 2026/Jina
13.08.2026/Uploaded*

