

(2026) 08 OHC CK 1608
In the Orissa High Court, Cuttack Bench
Case No : BLAPL NOs.4927 & 5295 of 2026

Muna @ SK. Sahid Mohammed & Anr.

APPELLANT

Vs

State of Odisha

RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

BNSS, 2023 — Section 483
NDPS Act-U/Ss.21(c)/25/29, Section 37

Citation : (2026) 08 OHC CK 1608

Hon'ble Judges : G. Satapathy, J

Bench : Single Bench

Advocate : Mr. D.P. Nanda, Sr. Advocate along with Ms. S. Biswal, Advocate, Mr. A.S. Paul, Advocate, Mr. M.R. Patra, Addl. PP

Final Decision : Disposed Of

Judgement

G. Satapathy, J.

1. Since these two 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 the bail applications U/S.483 of BNSS by the petitioners for grant of bail in connection with Special Crime Unit, Bhubaneswar-Cuttack PS Case No.02 of 2025 corresponding to TR Case No.175 of 2025 pending in the file of learned 3rd Additional Sessions Judge, Bhubaneswar, for commission of offences punishable U/Ss.21(c)/25/29 of NDPS Act, on the main allegation of jointly possessing 515Grams of Brown Sugar, along with co-accused persons.

3. In the course of hearing, Mr. Durga Prasad Nanda, learned Senior Counsel, who is being assisted by Ms. Subhalaxmi Biswal, learned counsel for the petitioner in BLAPL No.4927 of 2026 submits that although the petitioner is in custody for the last 16 months, but not a single witness has been examined and the quantity of Contraband article alleged recovered from the petitioner is just

above the commercial quantity and, therefore, the petitioner not having any criminal antecedent of similar nature, may kindly be granted bail by taking into account his custody period.

3.1. On the other hand, Mr. Amlan Shakti Paul, learned counsel for the petitioner in BLAPL No.5295 of 2026 submits that the petitioner was not found possessing any Contraband article, rather he has been implicated in this case on the basis of statement of co-accused and, thereby, the petitioner being an innocent person, he may kindly be granted bail.

3.2. On the other hand, Mr. M.R. Patra, learned Addl. Public Prosecutor, however, strongly opposes the bail application of the petitioners by contending *inter-alia* that the petitioner-Muna @ SK. Sahid Mohammed & another was found jointly possessing 515Grams of Brown Sugar, which is not just above the commercial quantity, rather much more than that and the petitioner-Rasmi Ranjan Bhol @ Rashmi is having one criminal antecedent of similar nature and, thereby, both of them having not satisfied the conditions of Section 37 of NDPS Act, their bail applications may kindly be rejected.

4. After having considered the rival submissions upon perusal of record, there appears allegation against the petitioner and others for jointly possessing 515Grams of Brown Sugar and even if the submission of Mr. Nanda, learned Senior Counsel is taken into consideration, the petitioner-Muna @ SK. Sahid Mohammed was found to have been possessing 260Grams of Brown Sugar, which is above the commercial quantity. Grant or refusal of bail for commission of offence under NDPS Act involving commercial quantity is governed by Section 37 of NDPS Act, which prescribes that no person accused of an offence under NDPS Act involving commercial quantity shall be released on bail, where the public prosecutor opposes such bail application of the accused; unless the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and he is not likely to commit any offence while on bail. What is significant is that the petitioner-Rasmi Ranjan Bhol @ Rashmi has one criminal antecedent of similar nature, but he has not disclosed such antecedent in his bail application, which amounts to suppression of material facts. In the context of suppression of material facts, this Court considers it profitable 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 has held as under:-

"9. Xxx xxx xxx, 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. Xxx xxx xxx".

5. Besides, on a scrutiny and survey of materials placed on record, this Court hardly finds the petitioner-Muna @ SK. Sahid Mohammed to have satisfied the conditions of Section 37 of NDPS Act. No doubt, the petitioners have suffered some custodial period, but custodial period alone is not sufficient to displace the

conditions of Section 37 of NDPS Act. In this regard, this Court is fortified with the decision of the Apex Court in ***Narcotic Control Bureau Vrs. Mohit Agarwal; (2022) 18 SCC 374***, wherein a three judges Bench of the Apex Court while setting aside the order granting bail to an accused has held that the length of the period of the custody of the accused or the fact that charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent U/ S.37 of NDPS Act. In view of the aforesaid facts and taking into account the materials placed on record and regard being had to the recovery of commercial quantity of Brown Sugar allegedly from the petitioner-Muna @ SK. Sahid Mohammed and the petitioner-Rasmi Ranjan Bhol @ Rashmi having not approached the Court with clean hands, this Court is not inclined to grant bail to any of the petitioners.

6. Hence, these two bail applications of the petitioners namely Muna @ SK. Sahid Mohammed (In BLAPL No.4927 of 2026) and Rasmi Ranjan Bhol @ Rashmi (In BLAPL No.5295 of 2026) stand rejected. Accordingly, these BLAPLs stand disposed of. A copy of this order be immediately transmitted to the learned trial Court for reference.