



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026
(@ SPECIAL LEAVE PETITION (CRIMINAL) NO. 16306/2026)

DEBANSU SARKAR

APPELLANT

VERSUS

STATE OF ODISHA

RESPONDENT

O R D E R

1. Leave granted.

2. We have heard learned counsel for the parties.

3. The appellant is aggrieved by the order dated 04.05.2026 passed by the High Court of Orissa at Cuttack (briefly, 'the High Court' hereinafter), rejecting the bail application of the appellant.

4. The appellant has been named as an accused in Malkangiri PS Case No. 455/2025 (corresponding to Special G.R. Case No. 112/2025) pending in the Court of learned Additional Sessions Judge-cum-Special Judge, Malkangiri, under Sections 20(b)(ii)(C)/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (briefly, the 'NDPS Act' hereinafter).

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KANIKA TAYAL
Date: 2026.10.14
14:51:31 IST
Reason:

5. The prosecution case in brief is that on 30.08.2025, at about 10:30 A.M., during the checking of vehicles, 100kgs of *ganja* were recovered from a vehicle bearing registration no. CG 04 HC 3921. The occupants of the vehicle, Lala Yadab, Lalji Rajvar and Golok Biswas were apprehended. In the course of their interrogation, they disclosed that the contraband was supplied by the appellant.

6. On the basis of the disclosure statement(s), appellant came to be arrested on 28.11.2025 and has been in custody since then.

7. Learned counsel for the appellant, at the outset, has referred to the counter affidavit filed by the State and submits that no recovery of the contraband was made from the appellant. He has been implicated only on the basis of the disclosure statement(s) of the accused persons. He is also not the owner of the vehicle, from which the seizure was made.

7.1. Learned counsel for the appellant has also drawn the attention of the Court to the arrest memo of the appellant dated 28.11.2026 where against the grounds of arrest, it is simply mentioned that appellant is involved in the above noted case. Pleading his innocence, learned counsel for the appellant prays for his bail.

8. *Per contra*, learned State counsel submits that appellant has a criminal antecedent also involving the same provisions of the NDPS Act. In that case, seizure of *ganja* was made from the appellant himself along with the three other persons, from an auto rickshaw. However, he was released on bail by the learned Special Judge under Section 167(ii) of the Code of Criminal Procedure, 1973 (Cr.P.C.) because of failure to file chargesheet within the stipulated period. He submits that appellant has failed to meet the stipulations of Section 37 of the NDPS Act and, therefore, he may not be granted bail.

9. The submissions made by learned counsel for the parties have received the due consideration of the Court. On a query by the Court, learned State counsel has informed that though the chargesheet was submitted, charges have not yet been framed and, therefore, the trial has not yet commenced. However, trial is going on in the case of the previous antecedent of the appellant.

10. Be that as it may, having regard to the fact that the appellant is in custody for almost one year and moreover, considering the fact that no specific ground(s) of arrest have been mentioned, we are inclined to grant bail to the appellant. Merely saying that appellant is involved in the case is not sufficient to meet the requirement of Clause (1) of Article 22 of the Constitution of India.

11. In such circumstances, we are of the considered opinion that the appellant deserves to be enlarged on bail.

12. Consequently, we set aside the impugned order of the High Court dated 04.05.2026 and direct that the appellant shall be produced before the learned Special Judge within a maximum period of seven days from today, whereafter, he shall be enlarged on bail on such terms and conditions as may deem appropriate.

13. Accordingly, the Criminal Appeal is allowed.

14. Pending application(s), if any, shall stand disposed of.

.....J.
[UJJAL BHUYAN]

.....J.
[ATUL S. CHANDURKAR]

NEW DELHI;
13th OCTOBER, 2026.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) No. 16306/2026

[Arising out of impugned final judgment and order dated 04-05-2026 in BLAPL No. 403/2026 passed by the High Court of Orissa at Cuttack]

DEBANSU SARKAR

Petitioner(s)

VERSUS

STATE OF ODISHA

Respondent(s)

(IA No. 241844/2026 - CONDONATION OF DELAY IN FILING, IA No. 241843/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 241842/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 13-10-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE UJJAL BHUYAN
HON'BLE MR. JUSTICE ATUL S. CHANDURKAR

For Petitioner(s) : Mr. Shyam Manohar, Adv.
Ms. Manju Jetley- 350, AOR

For Respondent(s) : Mr. Ayush Anand- 3409, AOR
Mr. Krishan Kant Kumar, Adv.
Mr. Monu Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The Criminal Appeal is allowed in terms of the signed order which is placed on the file.
3. Pending application(s), if any, shall stand disposed of.

(KANIKA TAYAL)
COURT MASTER (SH)

(CHETNA BALOONI)
COURT MASTER (NSH)