



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLREV NO.687 of 2026
CNR NO. ODHCO10696572026

(In the matter of application under Section 442 read with Sec.438 of BNSS).

Sripati Charan Badajena ... ***Petitioner***

-versus-

State of Orissa ... ***Opposite Party***

For Petitioner : ***Mr. M.K.Chand, proxy counsel
appearing on behalf of
Mr.R.R.Mishra, Advocate***

For Opposite Party : ***Mr.R.B.Mishra, Advocate***

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:23.09.2026(ORAL)

G. Satapathy, J.

1. This revision is directed against the impugned order dated 13.08.2026 passed by learned 3rd Addl. Sessions Judge, Bhubaneswar in CT Case No. 71 of 2026 declining to invoke the provision of Sec. 250(1) of the BNSS on the ground that the accused has preferred the discharge application beyond the statutory period of 60 days.



2. Heard Mr. Manas Kumar Chand, learned proxy counsel appearing along with Mr. Rashmi Ranjan Mishra, learned counsel for the petitioner and Mr. R. B. Mishra, learned Addl. PP. in the matter and perused the record.

3. Admittedly, the learned 3rd Addl. Sessions Judge, Bhubaneswar has refused to invoke the jurisdiction U/S. 250(1) of the BNSS for the discharge petition being not filed within sixty days, but the learned counsel for the petitioner has made sincere effort to impress upon the Court that the delay is not attributable to the accused-petitioner since the petitioner was directed to appear before the Sessions Court on 26.02.2026 and unfortunately the petitioner could not appear on that date and the matter was adjourned to 07.07.2026 and, therefore, the filing of discharge petition within the time period is not attributable to the petitioner. Further, Mr. Chand also contends that the police paper has not been supplied to the accused persons, but there is nothing on record to suggest that the accused-petitioner was not supplied



with the police papers, much less the police paper has to be supplied before the date of commitment and nowhere the petitioner is stated to have complained before the committing Court about non-supply of police paper. It is also a fact that the case record was advanced on 26.05.2026 by the accused to regularize his appearance before the Sessions Court, but even on that date, no discharge petition has been admittedly filed by the accused petitioner and thereby, the delay in approaching the Court with a discharge petition can be solely attributable to the accused and no laches can be found on the part of the Sessions Court/Court in seisin over the matter. No doubt, the revision-petitioner has relied upon the decision of High Court of Gujarat in the case of ***Kartikbhai Jashubhai Patel Vrs. State of Gujarat; MANU/GJ/1443/2026***, but this decision is not applicable to the petitioner inasmuch as, the accused therein has satisfactorily explained the delay in preferring the discharge petition and the petitioner herein has not been able to explain the delay satisfactorily since neither the petitioner herein



appeared before the Sessions Court on the first date fixed for appearance after commitment nor could he filed any discharge petition when he appeared in the said Court by advancing the case record nor could he filed any discharge petition till it was filed on 13.07.2026, although the date of commitment was 02.02.2026 and that too, filing the discharge petition on 13.07.2026 without satisfactorily explaining the delay.

4. After repealing of the CrPC, the BNSS has come into force with effect from 1st July, 2024 and Sec. 250(1) of the BNSS provides that the accused may prefer an application for discharge within a period of sixty days from the date of commitment of the case U/S. 232 of the BNSS. In this situation, when the accused-petitioner has appeared before the Court on the date of commitment, he must have known with regard to date of his appearance before the Court of Sessions, but despite that the accused has not appeared before the Court of Sessions on the first date



fixed for appearance and later regularized his appearance by advancing the case record. The plea of the accused-petitioner for non-supply of police paper appears to be not convincing since Sec. 232 of BNSS which provides the procedure for commitment of the case to Court of Sessions makes it clear that before commitment, the committing Court has to comply Sec. 231 of the BNSS which provides for supply of police paper to an accused and, therefore, such plea of the accused-petitioner appears to be afterthought one.

5. In this fact and situation, since this Court does not find any latches on the part of the Court in seisin over the matter to consider the discharge petition of the revision-petitioner, the present criminal revision being premature and not maintainable stands dismissed.

(G. Satapathy)
Judge

Signature Not Verified

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Date: 24-Sep-2026 14:25:49
Dated the 23rd day of September, 2026/Kishore