



IN THE HIGH COURT OF ORISSA AT CUTTACK

AFR

CRLREV No. 1010 of 2025

Aryaman Pattnayak **Petitioner**
Mrs. Shreya Patnaik, Advocate

-Versus-

Union of India (NCB) **Opposite Party**
Mr. P.K. Parhi, DSGI
along with Mr. J. Panda, CGC

CORAM:
JUSTICE R.K. PATTANAIK

DATE OF HEARING:12.12.2025
DATE OF JUDGMENT:22.12.2025

1. Instant revision under Section 442 with Section 438 BNSS is at the behest of the petitioner assailing the correctness, legality and judicial propriety of the impugned decision by order dated 12th September, 2025 passed in connection with Special T.R. Case No.378 of 2025 by the learned District Judge and Sessions Judge-cum-Special Judge, Bhubaneswar arising out of NCB, Bhubaneswar Crime No. 04 of 2025 on the grounds inter alia that such decision is arbitrary and illegal, hence, therefore, the same is liable to be interfered with and set at naught followed by a consequential direction issued releasing him forthwith from judicial custody.

2. The petitioner was apprehended by the NCB on 22nd July, 2025 and is in judicial custody since then with an allegation that he was in possession of commercial quantity of



LSD seized from him. Apart from other grounds, the primary contention demanding release of the petitioner is based on his illegal detention beyond 24 hours in violation of Article 22(2) of the Constitution of India. While challenging the decision of the learned Court below, the chronological sequence of events starting from the time of detention, search and seizure, interrogation, formal arrest and production of the petitioner have been pleaded on record. It has been pleaded that the NCB team reached the spot house at 1.15 P.M. and thereafter, served him a notice under Section 50 of the NDPS Act followed by search and seizure and left the place at 4.50 P.M. In fact, the above sequence is based on the revelation made by the NCB and referring to the same, immediate release of the petitioner is pleaded on the ground that he was not produced within 24 hours of arrest. Such detention is alleged on and from 1.15 P.M. on 22nd July, 2025 with a plea that the petitioner was physically restrained at his residence and was no longer free to leave and even accepting the version of NCB, the production was ensured between 5.00 P.M. and 5.30 P.M. and as such, the custody was approximately 28 hours, which is, hence, illegal and unconstitutional. It is further pleaded that a formal arrest is shown much after the confinement and therefore, the detention is more than 24 hours when the petitioner was required to be produced before the court below before expiry of such period as statutorily mandated. The contention IS that the learned court below could not have allowed further detention in custody when there has been non-compliance of Section 57 Cr.P.C. read with Section 58 BNSS as it had become



unauthorized and gross violation of Article 22(2) of the Constitution of India.

3. Heard Mrs. Pattnaik, learned counsel for the petitioner and Mr. Parhi, learned DSGI and Mr. Panda, learned CGC for Union of India (NCB).

4. According to Mrs. Pattnaik, learned counsel for the petitioner, there has been breach of 24 hours rule since the record reveals that on 22nd July, 2025 upon a prior information received from Delhi Zonal Unit, the NCB team left for the residence of the petitioner and reached there at about 1.15 P.M. entered inside the premises with independent witnesses and conducted search and seizure and left the place at around 4.50 P.M.-5.00 P.M having control over him throughout such search but a formal arrest was shown at 11.30 P.M. in the night and was produced before the court below on 23rd July, 2025 between 5.00 P.M. and 5.30 P.M. and therefore, the custody had been for 28 hours and therefore, such detention beyond 24 hours is ex-facie unconstitutional. It is contended that 24 hours limit for production before a court runs from the moment a person is placed under effective restraint and practically deprived of liberty and not from the formal arrest shown in police papers, the fact which was completely lost sight of by the learned court below, for having failed to meaningfully scrutinize the detention timeline thereby misdirected itself by treating the time of formal arrest as decisive and did not appreciate the admitted chronological events and hence, non-consideration of such a foundational fact when the plea entirely



based on own documents of the NCB clearly amounts to sheer non-application of judicial mind and material irregularity in exercise of jurisdiction justifying immediate interference by this Court. Though, such other grounds have been advanced, like non-compliance with NDPS procedural safeguards; no concrete proof of conscious possession of the contraband substance by the petitioner; seizure of the same having taken place from inside a residence; further non-compliance of statutory provisions, such as, Sections 42, 50, 52 and 52-A of the NDPS Act including the manner of receiving, recording and forwarding information, service of notice under Section 50 thereof, conduct of search, handling of seizure materials where strict adherence is imperative as it is likely to affect admissibility and weight of prosecution evidence, which constitutes a relevant factor, even at the time when, a bail plea is considered, the argument demanding release of the petitioner is predominately based on the claim that he was not produced before the court below within 24 hours from the time of confinement. The contention is that continued detention of the petitioner in utter disregard of constitutional scheme and statutory safeguards would be manifestly unjust and contrary to Article(s) 21 and 22 of the Constitution of India and therefore, the impugned order dated 12th September, 2025 of the learned court below deserves to be set aside.

5. On the contrary, Mr. Parhi, learned DSGI and Mr. Panda, learned CGC appearing on behalf of Union of India (NCB) would submit that search and seizure has been



conducted inside the premises in terms of Section 42 of the NDPS Act and thereafter, the petitioner was arrested and subsequently, produced before the court below within 24 hours. It is contended that the NCB officials after observing the necessary paraphernalia concluding search and seizure, finally upon a subjective satisfaction that the petitioner is involved, arrested him formally. A reference is to made to Section 67 of the NDPS Act to further contend that during and in course of an inquiry in connection with contravention of any of the provisions of the NDPS Act, information from any person for the purpose of satisfaction that there is contravention leads to arrest and therefore, to claim that on and from 1.15 P.M. on 22nd July, 2025 when the NCB officials reached the spot house, the time of arrest is to commence for computing 24 hours deadline is incorrect. It is contended that from the time of formal arrest, the time begins and in case, a person after being arrested is not produced within 24 hours, his such detention becomes illegal and not otherwise and in the case at hand, the arrest has been shown at 11.30 P.M. on 22nd July, 2025 and the production has taken place on 23rd July, 2025 at 5.00 P.M. and hence, there is compliance of Section 57 Cr.P.C.

6. In course of hearing, Mrs. Pattnaik, learned counsel for the petitioner cited the following decisions, such as, **Directorate of Enforcement Vrs. Subhash Sharma** in SLP (Criminal) No.1136 of 2023 dated 21st January, 2025; **Jati@Susanta Rout and Jilapi@Basanta Sahu Vrs. State of Odisha** in BLAPL No.5527 & 6993 of 2025 of this Court;



Biswajit Mandal Vrs. Inspector, Narcotic Control Bureau in B.A No.8581 of 2025 of Kerala High Court dated 12th August, 2025; **Sk. Hussain and others Vrs. State of Orissa** in CRLMC No.3703 of 2022 dated 19th May, 2023; and lastly **Vihaan Kumar Vrs. State of Haryana and another** in SLP (Criminal) No.13320 of 2024 dated 7th February, 2025 to contend that there is infraction in complying 24 hours rule in the production of the petitioner before the learned court below disregarding the constitutional mandate under Article 22(2) of the Constitution of India and that too when, the detention relates to a young boy aged about 22 years and an engineering student in Computer Science with no prior criminal antecedents and has remained in judicial custody for nearly five months having a respected family and 15 year-old specially abled sister and hence, any such continued incarceration is certainly to cause serious hardship to the family and also irreparable harm to his academic and professional prospects, whereas, from the side of NCB, the decisions in **D.K. Basu Vrs. State of West Bengal (1997) 3 SCC (Criminal) 1992**; **State of Punjab Vrs. Balbir Singh (1994) 3 SCC 299**; **Arnesh Kumar Vrs. State of Bihar and another (2014) 8 SCC 273**; and **Narcotics Control Bureau Vrs. Mohit Aggarwal (2022) 18 SCC 374** have been placed reliance on and it is contended that the petitioner's detention cannot be counted from the time when the NCB officials reached his residence but from the formal arrest shown since an arrest is a specific event to happen and does not begin from the very inception when search begins. It is also contended that



even otherwise, if the formal arrest is not treated as the event of arrest, the timeline started from 5.00 P.M onwards on 22nd July, 2025 and in that case, the production has to be treated as within time before expiry of 24 hours as it is admitted that he was forwarded to the court on 23rd July, 2025 between 5.00 P.M. to 5.30 P.M., which is in consonance with the time stipulated under Section 58 read with Section 187 BNSS.

7. It is informed to the Court that the petitioner has moved this Court for bail and the same is pending disposal. In that view of the mater, it is submitted by Mr. Parhi, learned DSGI and Mr. Panda, learned CGC that the petitioner may canvass the ground raised at present while demanding bail with such other grounds pleaded and therefore, such plea agitated herein should not to be considered and in support of such contention an order dated 19th February, 2025 of the Apex Court in **Ram Kotumal Issrani Vrs. Directorate of Enforcement and another** in SLP (Criminal) No.6181 of 2024 dated 19th February, 2025 is cited, wherein, all such grounds were allowed to be raised before the Court dealing with bail.

8. In **Subhash Sharma** (supra), the Apex Court held that the requirement of Article 22(2) has been incorporated in Section 57 Cr.P.C. and vires thereof was examined on a plea that there is inconsistency between the provisions of PMLA and Cr.P.C. and further concluded therein that once a court finds that fundamental rights of an accused under Article(s) 21 and 22 of the Constitution of India have been violated, its duty is to release him of bail since the arrest in such cases stands



vitiated and it is to uphold the fundamental rights guaranteed under the Constitution of India. In **Jati@Susanta Rout** (supra), this Court finding that the detention of the accused persons therein was beyond 24 hours held and concluded that they are eligible for bail referring to the decision in **Subhash Sharma**. In **Biswajit Mandal** case, the Kerala High Court concluded that the moment a person is restrained or there is a complete restraint on the freedom of movement or he is held against his interest in curtailment of liberty, it can be said that there is arrest, inasmuch as, actual restraint either by word or action or conduct would suffice and the Constitution of India mandates that the person arrested is produced before a Magistrate within 24 hours of the arrest other than the time necessary to reach the Court from the place of arrest as there is a peremptory prohibition against any such detention beyond the said period. In **Sk. Hussain** (supra), this Court finds that the actual arrest has taken place between a particular time and production before the court has taken place not within 24 hours and hence, concluded that there is breach of a statutory mandate, hence, directed release of the accused persons therein on bail. In **Vihaan Kumar** (supra) the Apex Court, it has been held that the grounds of arrest are required to be made known to the accused in writing and the same is a constitutional mandate as on such ground, release is demanded but not really argued confining it to the detention beyond 24 hours.

9. Turning to the facts of the case, the NCB team reached the flat in question at 1.15 P.M. and remained there till 4.50



P.M. and in between, the search and seizure was conducted. The petitioner is said to have been picked up by the NCB officials at 4.50 P.M from the spot house after the search, seizure and inquiry was over and at last, he was formally arrested at 11.30 P.M. in the night. The plea advanced is that the confinement of the petitioner from 1.15 P.M. onwards on 22nd July, 2025, the time starts to run and within 24 hours therefrom, he was to be produced before the court below but such production has taken place on 23rd July, 2025 between 5.00 P.M. and 5.30 P.M. and there is a delay of four hours. The further plea is that 24 hours cannot be counted on and from 11.30 P.M. when the formal arrest of the petitioner was shown on 22nd July, 2025 because the confinement was from 1.15 P.M. in the afternoon and hence, the petitioner was required to be produced any time before 1.30 P.M. to 1.45 P.M excluding the period of journey from the spot to the court. Admittedly, there is an arrest memo dated 22nd July, 2025 with formal arrest shown therein at 11.30 P.M. The question is, whether, the petitioner can be said to have been arrested on 22nd July, 2025 at 1.15 P.M.? Whether 24 hours' time is to be counted from 1.15 P.M. and onwards and not from 11.30 P.M. when the petitioner was formally arrested?

10. Section 42 of the NDPS Act stipulates the power of entry, search and seizure and arrest and the manner in which it is to be conducted. As per Section 57 Cr.P.C., a person arrested is not to be detained for more than 24 hours. Law is well settled that any such detention beyond 24 hours from the time



of arrest is illegal and for that, the person shall have to be released forthwith. The Apex Court in **Directorate of Enforcement Vrs. Deepak Mahajan and another (1994) 3 SCC 440** elaborately discussed as to what an 'arrest' does mean. How an arrest is made is prescribed under Section 46 Cr.P.C. and there is no denial to the fact that any such delay in production of an accused before a court and not within 24 hours as stipulated, a detention beyond, becomes unconstitutional. The pertinent question is, from when, 24 hours' time is to be computed? If the arrest is complete irrespective of any such formal arrest shown at a later point of time, the 24 hours timeline begin from such arrest and if it is not within the above stipulated period that the production has taken place, it shall have to be held as illegal. Undue delay in showing a formal arrest on record is likely to defeat the statutory mandate when a person is literally arrested. In fact, in **Subhash Sharma** (supra), a Look Out Circular (LOC) was issued and as a result, the accused therein was detained at the airport and from the time of such detention, he was not produced before the court within 24 hours and under such circumstances, it was held that the arrest is rendered completely illegal in violation of Article 22(2) of the Constitution of India and therefore, his further detention is having no sanction of law. An LOC is issued to prevent a person from leaving the country and any such detention on that basis can be considered equivalent to an arrest. But there is a distinction between an arrest and detention, while both involve a restriction in movement, a detention may be temporary and



for investigatory purposes and could even be preventive in nature, whereas, the arrest is more formal where one is taken into custody, which usually means, the person is being charged with a crime based on a probable cause. Since, on the basis of a LOC, the accused was detained at the airport in **Subhash Sharma** (supra) and such detention continued beyond 24 hours, the Apex Court considering such detention as an arrest dismissed the argument that it was within time that he was produced before the court on the strength of a formal arrest shown thereafter. According to the Court, it depends on the facts and circumstances of each particular case to determine, as to when, one can be said to have been arrested and it is not necessarily referable to the formal arrest recorded.

11. In the case of the petitioner, as per the facts narrated hereinbefore the NCB officials reached at his residence at 1.15 P.M. and to claim that on and from then, he was arrested for being detained is an argument entirely misconceived. A search and seizure is held with other procedural compliances carried out and only upon a confirmation that there is a case made out revealing *prima facie* involvement of a person in the commission of a crime and as a result, he is detained, it may be said that from the time of such detention that 24 hours timeline commenced even if there is a formal arrest shown sometime later. It may also happen that further inquiry and interrogation of an accused to be necessary to confirm his complicity or with some nexus with the crime committed and for that, a formal arrest is recorded at the end. A person may be detained or his



liberty is temporarily disrupted in course of search and seizure but it cannot be treated a detention alike arrest. At the time of any such search, the presence of the suspect is very much necessary and obviously, he cannot be allowed to leave the place of search but to claim that such detention is a confinement and is an arrest in the eye of law is an incorrect argument. If, in each and every case, mere detention for the purpose of inquiry, investigation and during the time of search and seizure is to be treated as an arrest, it would mean that even before anyone's involvement is *prima facie* proved, he is shown as arrested. A formal arrest is, therefore, recorded only upon a satisfaction reached at and not otherwise. A detention is always temporary and it may lead to arrest, or no arrest and a person is arrested only when incriminating materials reveal his involvement. According to the Court, a detention becomes an arrest when one is deprived of the freedom to leave holding one to answer for a crime, not just for brief questioning, especially, if it goes beyond a short investigatory hold and involves a formal custody. A detention is based on reasonable suspicion less than a probable cause, whereas, arrest requires a reasonable belief of one's involvement in a crime. In case, one is taken to police custody and not released, any such extended detention may become an arrest. Anyone detained beyond a short investigative period may result in an arrest. In a sense, the detention is a temporary restraint, whereas, arrest is when one is found to be *prima facie* involved in the commission of an offence. There is a fundamental distinction between detention and arrest as the former is investigatory and the latter



is accusatory and prosecutorial. If someone is detained is not necessarily even a suspect but in case arrested, he is being treated as an accused and there is a serious consequence to the same as arrest affects liberty, dignity and potentially his future prospects. A detention while still a restraint does not carry the same legal and social implications unless it escalates to an arrest. An arrest refers to an act of formally taking a person into custody based on a reasonable belief or evidence that he has committed a crime. It is not just a restraint on liberty but a beginning of a formal crime proceeding. A detention is, in normal parlance understood, as an act of keeping a person in official custody temporarily for the purposes of questioning or investigation. Importantly, detention does not always imply suspicion of a crime, it is generally used as a preventive or precautionary tool by the authorities to maintain public order or investigate a matter before taking further steps. The enforcement of law can result in either a detention or an arrest and as earlier discussed, detention is a temporary decision based on reasonable suspicion which means one might be believed being involved in illegal activities without enough evidence for the charges and during such detention, one is not free to leave though not formally arrested.

12. In the case at hand, it is made to understand that NCB received specific information against the petitioner as a suspect and accordingly, swung into action and reached the spot house in search of him at 1.15 P.M. and thereafter, inquiry, search and seizure continued till 4.50 P.M. The presence of the petitioner



was necessary for the purpose of the search and hence, he could not have been allowed to leave the place but such restraint cannot be said to be an arrest. A formal arrest is shown at 11.30 P.M. in the night and under the belief that 24 hours timeline begins from such formal arrest of the petitioner, he was produced on 23rd July, 2025 at 5.10 P.M. It may be said that the petitioner having been picked up by the NCB at 4.50 P.M. or 5.00 P.M., on and thereafter, his liberty was curtailed. In that case, if it is assumed for the sake of argument that the detention is from 5.00 P.M. dated 22nd July, 2025 being a de facto arrest with the probable cause or belief of involvement of the petitioner, he having been produced between 5.00 P.M. to 5.30 P.M. before the learned court below, it shall have to be held that such detention has been not beyond 24 hours. A formal arrest is shown in the night and of course, it could have been earlier sometime after the seizure of the contraband substance but it may be that the NCB was inclined to go for further enquiry, hence, the petitioner was taken for interrogation. But, even considering the plea that the arrest had been earlier to 11.30 P.M. on 22nd July, 2025, in the humble view of the Court, at no stretch of imagination, it cannot be said to have commenced from 1.15 P.M. or 1.30 P.M. at a time when the search had not even commenced or just started.

13. Normally search, seizure and other paraphernalia consume a little bit of time, which was perhaps concluded by 5.00 P.M. on 22nd July, 2025 and according to the NCB, the necessary procedural safeguards had to be complied with and



hence at 11.30 P.M., a formal arrest was recorded. In between 5.00 P.M. and 11.30 P.M. it is claimed by the NCB that the seizure articles were brought to the godown and then the petitioner was interrogated further recording his statement in a questionnaire format and in compliance of Section 67(C) of the NDPS Act and proof of such involvement by him in the commission of the crime was confirmed at 7.00 P.M. but still a formal arrest has been shown at 11.30 P.M. Irrespective of any such explanation of the NCB, notwithstanding a formal arrest having taken place at 11.30 P.M., even accepting the plea of the petitioner that he had been brought to the NCB's office at 5.00 P.M. after the seizure procedure was completed at 4.50 P.M., it was quite probable for him to believe that the detention is on account of the alleged recovery and seizure of the contraband LSD and from that time onwards, it could be said that he was arrested even though the formal arrest has taken place almost after 6 and half hours. The period in the interregnum is sought to be explained by the NCB but the same is challenged on the ground that there has been inordinate delay in the arrest of the petitioner and detention was beyond 24 hours. It is reiterated that the detention by itself does not amount to arrest and when the petitioner was taken into custody by the NCB at 5.00 P.M. only then there was a probable cause or belief regarding his involvement in the commission of crime and from that time onwards, it would not be incorrect to say that his liberty was taken away. When one is physically restrained or not permitted to leave and detained after search and seizure was concluded and ultimately picked



up by the law enforcement agency, he may be said to have been arrested even though a formal arrest is recorded at a later point of time. Considering the case laws cited and having given anxious consideration to the submissions of learned counsel for the respective parties, the Court is of the ultimate view that even though there has been delay in recording a formal arrest with whatever reasons assigned by the NCB, the petitioner's movement can be said to have been restrained or confined on and after 5.00 P.M. on 22nd July, 2025 and not at any time before as has been pleaded and in such an eventuality, the production of the petitioner cannot be said to be beyond 24 hours, since it has taken place between 5.00 P.M. and 5.30 P.M. on 23rd July, 2025 and hence, there is no violation of Section 57 Cr.P.C. read with Article 22(2) of the Constitution of India.

14. With regard to other grounds advanced from the side of the petitioner, regarding the procedural shortfalls, the same may be agitated at the time of consideration of bail. Whether the petitioner was really involved in the trafficking of the drug since commercial quantity of LSD was allegedly shown to have been seized from him or from his residence is a matter to be considered on the basis of the materials collected during investigation. It is also argued that even assuming arguendo that LSD was recovered, quantity of which, is marginally above the notified commercial limit and absence of supporting material about trafficking which is not sufficient for causing his arrest and further detention but all such grounds, since not



argued and release of the petitioner has been demanded primarily on a plea that the arrest and production is beyond 24 hours timeline, the Court is to conclude that the petitioner should be left at liberty to raise the same while pleading for bail. Finally, to sum up, the detention of the petitioner even assumed to be from 4.50 P.M.-5.00 P.M. on 22nd July, 2025 when he was whisked away to the office of the NCB at Bhubaneswar, he having been produced before the learned court below on 23rd July, 2025 between 5.00 P.M. and 5.30 P.M. is not beyond 24 hours of such arrest, in case, treated so and not from the time of formal arrest and by no means, the timeline starts to run from 1.15P.M.-1.30P.M. It can, therefore, be concluded that the impugned order dated 12th September, 2025 of the learned District Judge and Sessions Judge-cum-Special Judge, Bhubaneswar in Special T.R. Case No.378 of 2025 denying release of the petitioner on any such ground does not suffer from any legal infirmity.

15. Accordingly, it is ordered.

16. In the result, the revision petition stands dismissed.

(R.K. Pattanaik)
Judge