THE HIGH COURT OF ORISSA: CUTTACK

No.XI-46/2025/.....19288(30)..../ **Dated**.....03.12.2025

From

Satya Ranjan Pradhan,
Registrar (Judicial)

To

The District & Sessions Judge,..... (All)

Sub: Order No.2 dated 26th November, 2025 passed in JCRLA No.183 of 2025 (Jatia Hembram Vrs State of Odisha) by the High Court of Orissa regarding timely filing of appeals by convicts and mandatory provision of legal aid.

Sir,

I am to say that the Hon'ble Court, while considering the Jail Criminal Appeal filed by the convict Jatia Hembram in the aforementioned case, has expressed deep concern over the inordinate delay of 4565 days in filing the appeal against the conviction under Section 302 of the IPC.

I am, therefore, directed to forward herewith a copy of the Order No.2 dated 26th November, 2025 passed in JCRLA No.183 of 2025 for your information and circulation amongst all Judicial Officers including the Secretary, DLSAs, of your judgeship for their information and strict adherence.

Yours faithfully,

3.12.25

REGISTRAR (JUDICIAL)

Encl: As above

Memo No.....19289...../R Dated.....03.12.2025.....

Copy forwarded to the Member-Secretary, OSLSA, Cuttack for information and necessary action.

3.12.25

REGISTRAR (JUDICIAL)

Memo No.....19290...../R Dated.....03.12.2025.....

A copy of the same is forwarded to the Superintendent, Criminal Appeal Section of this Court, with a direction to place it in the concerned judicial record.

REGISTRAR (JUDICIAL)

3.12

Through e-mail

OFFICE OF THE DISTRICT JUDGE, GANJAM, BERHAMPUR.

e-mail: dsj.ganjam-od@indiancourts.nic.in

Memo No. 15094 (GS) ***/ dtd.*** 05/12/2025

Copy along with its enclosures is forwarded to: -

1. The Member, 2nd. MACT (SD), Berhampur
2. The Judge, Family Court, Berhampur / The Spl. Judge (Vig.), Berhampur
3. The Additional District Judge-cum-Spl. Court under POCSO Act, Berhampur
4. The Ad-hoc Additional District Judge, (FTSC) under POCSO Act, Berhampur
5. The Presiding Officer, Designated Court under OPID Act, Berhampur
6. The 1st /2nd/ 3rd Addl. District Judge, Berhampur
7. The Addl. District Judge (LR & LTV), Berhampur
8. The Additional District Judge, Aska / Bhanjanagar / Chatrapur / Khallikote / Kodala
9. The Chief Judicial Magistrate, Ganjam, Berhampur
10. The Addl. Chief Judicial Magistrate, Berhampur
11. The ASJ-cum-Registrar, Civil Courts, Berhampur
12. The Civil Judge (Sr. Divn), Berhampur
13. The Civil Judge (Sr. Divn.), Aska/ Bhanjanagar / Chatrapur/ Hinjilicut/ Khallikote/ Kodala/ Purushottampur/ Sorada/ Digapahandi
14. The Civil Judge (Sr. Divn.) (Commercial Court), Berhampur
15. The 1st / 2nd Additional Civil Judge (Sr. Divn.), Berhampur
16. The Civil Judge (Sr. Divn.) (LR & LTV), Berhampur
17. The Secretary, D.L.S.A., Berhampur
18. The Civil Judge, Berhampur / The Civil Judge-cum-JMFC, Aska
19. The SDJM, Berhampur / Bhanjanagar / Chatrapur
20. The J.M.F.C(Rural) (Cog.Taking.), Berhampur
21. The JMFC Aska (Cog.) / Bhanjanagar / Buguda / Chatrapur / Digapahandi / Hinjilicut / Jagannathprasad/ Kabisuryanagar / Khallikote / Kodala / Patrapur / Polasara / Purushottampur / Seragada / Soroda
22. The Nyayadhikari, Gramnyayalaya, Sanakhemundi
23. The JMFC (Transport), Berhampur / All the JMFCs, Berhampur/ Aska
24. The Executive Assistant, District Court, Ganjam, Berhampur
25. The Court Manager, District Court, Ganjam, Berhampur
26. The Peshkar, District Court, Ganjam, Berhampur

    for information and strict adherence.
27. The System Officer, District Court, Ganjam, Berhampur for information with a direction to upload the same on the Official Website of Ganjam Judgeship for general information.
28. Guard file.

Registrar
Civil Courts, Berhampur.

IN THE HIGH COURT OF ORISSA AT CUTTACK

JCRLA No.183 of 2025

Jatia Hembram ..... ***Appellant***

-versus-

State of Odisha ..... ***Respondent***

Mr. Jateswar Nayak,
Addl. Govt. Advocate

CORAM:

THE HON'BLE MR. JUSTICE S.K. SAHOO

THE HON'BLE MR. JUSTICE SIBO SANKAR MISHRA

Order No.

ORDER
26.11.2025

02. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

As per the order dated 24.11.2025, Mr. Manoranjan Pratihari, Jail Superintendent, Circle Jail, Baripada has appeared through virtual mode and he has also ensured the presence of the appellant through virtual mode.

The appellant Jatia Hembram has preferred this appeal challenging the judgment and order dated 30.01.2013 of the learned Addl. Sessions Judge, Baripada in S.T. Case No.5/26 of 2011-10 in convicting him for offence under section 302 of I.P.C. and sentencing him to undergo imprisonment for life.

When the matter was taken up on 24.11.2025 and we found that the Stamp Reporter has reported that there is a delay of 4565 days in filing the JCRLA, we asked the

Registry to verify whether any regular Criminal Appeal/JCRLA has been filed by the appellant earlier challenging the impugned judgment.

As per the order dated 24.11.2025, the Dealing Assistant, Computer Filing Section has reported that after thorough search in the C.I.S. portal, it was found that only this Jail Criminal Appeal has been filed on 04.10.2025.

In the order dated 24.11.2025, we called for a report from the learned District & Sessions Judge, Baripada, Mayurbhanj as to why the impugned judgment was not challenged before this Court earlier by filling the Criminal Appeal/Jail Criminal Appeal since regular inspections are being made to the jail not only by the learned District Judge but also by the Officers attached to District Legal Services Authority.

The learned District and Sessions Judge, Baripada, Mayurbhanj has filed a report, which is taken on record.

In the report, the learned District and Sessions Judge, has stated that since he joined as the District and Sessions Judge, Mayurbhanj, Baripada on 15.05.2025, regular jail inspections have been conducted by him personally, as well as by the Secretary, District Legal Services Authority, Mayurbhanj and during every such jail visit, all convicts are individually informed regarding their right to prefer appeals and are specifically enquired regarding filing of Jail Criminal Appeals within the stipulated appeal period. Further, the Secretary, DLSA, Mayurbhanj

has also been instructed to verify and report whether all convicts have preferred their Criminal Appeals before this Court and to ensure that Legal Aid is provided promptly in all eligible cases. Accordingly, the Secretary, DLSA, Mayurbhanj has taken necessary steps for filing Criminal Appeals of the convicts before this Court in all cases where no appeal had been filed as well as in the cases where no data was available whether any appeal has been preferred. It is further stated in the report that after the matter was brought to the notice of the authority, the appeal petition of the convict, Jatia Hembram was forwarded to the High Court Legal Services Committee of this Court by the Secretary, DLSA, Mayurbhanj vide letter dated 20.09.2025 for providing the necessary Legal Aid and assistance to the convict for filing the appeal. It is further stated in the report that the delay in filing the appeal in this case was not intentional. The learned District and Sessions Judge begged sincere apology for unintentional delay occasioned in filing the appeal and he has assured this Court in writing that he shall remain vigilant in future and shall take all necessary steps to ensure that all the Jail Criminal Appeals of the convicts are filed within the stipulated period henceforth.

We also asked the Secretary, DLSA, Mayurbhanj, Baripada vide order dated 24.11.2025 to verify from the records as to whether the trial Court record of the case either in original or in digital form has been called for by

this Court in connection with any Criminal Appeal or Jail Criminal Appeal.

Miss Rajashree Pattanayak, Secretary, D.L.S.A., Mayurbhanj appearing through virtual mode informed us that she had verified that the trial Court record of the case either in original or in digital form has not been called for by this Court in connection with any Criminal Appeal or Jail Criminal Appeal and it is still available in the record room.

We also asked the Jail Superintendent, Circle Jail, Baripada vide order dated 24.11.2025 to contact with the counsel who is stated to have been entrusted for filing the Criminal Appeal by the appellant and to ascertain about the status of the Criminal Appeal, if any filed.

The Jail Superintendent, Circle Jail, Baripada appearing through virtual mode submitted that the counsel for the appellant was contacted and he stated that he had not preferred any Criminal Appeal of the appellant before this Court.

We asked the learned counsel for the State to ensure the appearance of the D.G., Prisons through virtual mode and accordingly, Mr. Susanta Kumar Nath, D.G., Prisons appeared and we apprised him about the inordinate delay caused in this case in filling the Jail Criminal Appeal by the appellant, who is a life convict. He stated that coming to know about similar problems, a special drive was conducted and more than 100 cases were detected, where the Criminal Appeals or Jail Criminal Appeals numbers of the

convicts were not available with the jail authorities and the convicts also could not furnish the same. Accordingly, arrangements were made to take steps for preferring the Jail Criminal Appeal and the present appeal is one of them. He has also assured this Court that the track records of all the appeals, which are being filed by the convicts, either by their own arrangement or through Legal Aid, the case numbers, the name of the counsel, the contact number of counsel, the status of the interim application including the bail filed in the appeal would be maintained and a sheet of paper containing all such details shall be provided to the respective convicts. If any convict, who is detained in custody, states before the jail authority that he has made his own arrangement to file the Criminal Appeal, the number of such appeal and the name of the counsel and the contact number of the counsel shall be ascertained, verified and records thereof to be kept for future reference. The correctness of the filing of regular Criminal Appeal by a convict can be verified through High Court website, if the appeal is to be filed before this Court.

The D.G., Prisons has assured this Court that he will make another special drive in different jails of the State, where the convicts are detained to know as to whether they have filed any appeals challenging the conviction or not and whether the appeal numbers, contact number of the counsel are available with the jail authority or not and in case, it is found that any convict has not preferred any

appeal, immediate steps shall be taken for filling the appeals before the appropriate Court with the help of the Secretary, D.L.S.A. so that the delay can be avoided and it would facilitate early disposal of the appeals and passing orders on the interim applications. The data collected by the D.G. of Prisons jailwise shall be submitted to this Court within four weeks.

A right of appeal is an invaluable right, particularly for an accused who cannot be condemned eternally by a trial Judge, without having a right to seek a re-look of the trial Court's judgment by a Superior or Appellate Court. The right to prefer an appeal by an accused against the conviction is not merely a statutory right but can also be construed to be a fundamental right under Articles 14 and 21 of the Constitution.

When a convict is in judicial custody and not having the financial capacity to challenge the conviction order by way of an appeal making his own arrangement, it becomes the sacrosanct duty of authorities concerned to provide legal aid to him and to ensure that the appeal is filed with promptitude and information in that respect with up to date status of the appeal is provided to the convict regularly.

Sometimes, the convicts are unaware of their legal rights or appeal process and sometimes, they expressed unwillingness and are reluctant to file appeals for various reasons. If any convict does not choose to prefer appeal against his conviction in spite of proper guidance and

proper advice being aware of his fundamental and statutory rights, the same should be obtained in writing from him by the Secretary of the D.L.S.A. and be forwarded to the Member Secretary of Odisha State Legal Services Authority for future reference and a copy of the same shall also be kept with the jail authorities. The convict should be guided properly and provided suitable advice regarding their statutory and constitutional rights to prefer the appeals, if necessary by taking the help of their family members so that appeals can be instituted with their consent.

The Hon'ble Supreme Court recently held in the case of **Kamaljit Kaur -Vrs.- State of Punjab reported in 2025 LiveLaw (SC) 1035** that the appeal filed without the convict's consent amounted to a misuse of process of law. Therefore, it is necessary that the convict's refusal to give his consent to prefer an appeal should be obtained in writing.

Since the legal system provides a robust right to appeal, the convicts, who are unable to make their own arrangement in preferring the appeals against the conviction, should receive free and effective legal aid as part of their right to access justice.

Considering the poor financial condition of the appellant, the period of his detention in judicial custody and the circumstances under which the Jail Criminal Appeal could not be filed earlier and since the appellant has been sentenced to undergo imprisonment for life, taking a liberal

view, we are inclined to condone the delay in filing the JCRLA.

Accordingly, the delay is condoned.

Heard.

Admit

Call for trial Court records.

Mr. Goutam Misra, learned Senior Advocate is appointed as Amicus Curiae for the appellant.

Registry is directed to intimate the appellant about the engagement of the counsel.

The name of Mr. Goutam Misra, learned Senior Advocate for the appellant be reflected in the cause list as well as at the top of the brief.

Let a copy of the prisoner's petition as well as copy of the impugned judgment be provided to the learned Amicus Curiae for the appellant so also the learned counsel for the State.

The file be placed before the learned Registrar (Judicial) of this Court so that a copy of the order shall be sent for obtaining the trial Court record and after receipt of the trial Court record, steps shall be taken for immediate preparation of the paper books by 12.12.2025 and after preparation of the paper books, a copy of the same shall be supplied to Mr. Misra, learned Senior Advocate as well as to the learned counsel for the State.

If the learned Senior Advocate wants to interact with the appellant to know about the case matters, the

arrangement shall be made by the Registry through virtual mode.

List this matter on 07.01.2026 for hearing.

The personal appearance of D.G., Prisons, the Jail Superintendent, Circle Jail, Baripada and the Secretary, D.L.S.A., Baripada, Mayurbhanj are dispensed with.

A free copy of the order be handed over to the learned counsel for the State, which will be forwarded to the D.G., Prisons and also a copy of the order be handed over to Mr. Goutam Misra, learned Senior Advocate.

A free copy of the order be forwarded to all the learned District and Sessions Judges with the approval of the Hon'ble the Chief Justice.

(S.K. Sahoo)
Judge

(S. S. Mishra)
Judge

RKM/Rajesh

Signature Not Verified
Digitally Signed
Signed by: RAJESH KUMAR BADHEI
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 26-Nov-2025 20:25:26