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ODISHA HIGH COURT'S BAIL ORDER ON CLEANING THE POLICE STATION AND THE CRIMINAL JUSTICE SYSTEM'S UNEVEN OPERATION ON HISTORICALLY MARGINALISED COMMUNITIES

- Stuti Sharma

Between May 2025 and January 2026, eight bail orders were granted under the conditions of cleaning the premises of the Kashipur Police Station every morning between 6:00 a.m. and 9:00 a.m. by the Odisha Court. The eight who received the bail under these conditions belong to the Dalit and Adivasi population.¹ In *Frank Vitus*, the Court held that bail conditions imposed in the interest of justice must be narrowly construed to mean good administration of justice or advancing the trial process. Moreover, the conditions should be within the ambit of 437 (3) CrPC and consistent with the object of the bail and further, can curtail the constitutional rights of the accused only to the “minimum extent required.”² In this regard, I argue that such orders [like the Odisha bail order] are an example of how the criminal justice system operates unevenly upon historically marginalised communities, particularly Dalit and Adivasi populations.

According to NCRB statistics [2023], despite making up 16.6% of the population, SCs make up 20.6% of undertrial prisoners, while STs (8.6% of the population) make up 10%. In tribal-majority states like Odisha, STs make up more than 25% of all undertrial prisoners. In 2022, the SC, ST, and OBC minorities accounted for 66% of undertrial prisoners.³ The bail orders

¹Nikita Jain, *After State Crackdown on Anti-Mining Protests, Odisha Courts Order Adivasi & Dalit Protesters to Clean Police Stations*, ARTICLE 14 (Apr. 27, 2026), <https://article-14.com/post/after-state-crackdown-on-anti-mining-protests-odisha-courts-order-adivasi-dalit-protesters-to-clean-police-stations-69eed7b73b1ec>.

²*Frank Vitus v. Narcotics Control Bureau*, 2024 INSC 479.

³Moumita Barman, *Undertrial Disparities of Caste and Religion in PSI 2023 India*, SIASAT (Oct. 20, 2025), <https://www.siasat.com/undertrial-disparities-of-caste-and-religion-in-psi-2023-india-3285430/> and Shibra Siddiqui, *Majority of Prison Undertrials Youth, From Oppressed Communities*, NEWSCLICK (Jan. 9, 2024), <https://www.newsclick.in/majority-prison-undertrials-youth-oppressed-communities>.

read alongside these statistics reveal how such bail orders do not emerge in a social vacuum. They emerge within a system where particular communities are already disproportionately policed, arrested, and incarcerated. In this sense, the bail order cannot be seen as an aberration from the system but rather the system made visible.

The deeper violence of the order lies in what it communicates socially. The protesters were members of Dalit and Adivasi communities protesting in defence of land rights recognised under Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) and the Forest rights act. Against this background, an order to clean police stations carries a loaded historical meaning within India's caste structure and notions of impurity. The order therefore transforms bail into a ritual of humiliation.

I find Foucault's idea of punishment as a 'juridical ritual' useful here for my analysis. In *Discipline and Punish*, Foucault argues that punishment is never merely about disciplining the individual offender; it also communicates power to the wider community.⁴ Read through this lens, the Odisha bail condition operates as a public performance of state authority. It becomes a site of Foucauldian punishment-spectacle where the protesters are required to return and perform labour historically associated with caste subordination under the supervision of police officers. In a way, this is an example of when courts become sites through which caste humiliation is performed.

One line of argument as to why such bail order conditions may have been imposed is due to Section 4(f) of the Bharatiya Nyaya Sanhita, 2023 which has introduced "community service" as a punishment for certain offences.⁵ However, in *Ajin K.V. v State of Kerala* (2025), the Kerala High Court held that community service under the BNS is a punishment that must be given following a conviction. It cannot be imposed as a bail condition.⁶ Thus, this argument holds no water.

On a positive note, the Supreme Court took suo moto cognizance, which was prompted by the Article 14 post on the same and such conditions were held to be null and void. The conditions

[<https://www.newsclick.in/majority-prison-undertrials-youth-oppressed-communities>.]

⁴MICHEL FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* (Vintage Books 1977).

⁵Bharatiya Nyaya Sanhita, 2023, § 4(f), No. 45, Acts of Parliament, 2023 (India).

⁶*Ajin K.V. v. State of Kerala*, 2025:KER:1451.

were recorded as “abhorrent, degrading and unknown to law.”⁷ This progressive jurisprudence and reasoning is in line with previous Supreme Court orders such as *Munish Bhasin v State (NCT of Delhi)* (2009), *Sumit Mehta v State (NCT of Delhi)* (2013), *Parvez Noordin Lokhandwalla v State of Maharashtra* (2020), *Aparna Bhat v State of Madhya Pradesh* (2021), *Frank Vitus v Narcotics Control Bureau* (2024) and *Ramratan @ Ramswaroop v State of Madhya Pradesh* (2024). In all these cases, the Supreme court has reiterated time and again that bail conditions cannot be oppressive and have to be tethered to the purpose of administration of justice.

Thus, such bail orders showcase how bail conditions can carry a loaded historical and social meaning, operating unevenly upon historically marginalised communities. On the other hand, it also shows the progressive, speedy interventionist approach of the Supreme Court to undo the harm and its role as the harbinger of justice.

⁷V. Venkatesan, The Supreme Court's Rebuke to a Broom-Bearing Bail Order, SCO OBSERVER (May 8, 2026), <https://www.scobserver.in/journal/the-supreme-courts-rebuke-to-a-broom-bearing-bail-order/>.