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Reserved on : 05.03.2026
Pronounced on : 07.07.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 07TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.5267 OF 2026 (GM - RES)

BETWEEN:

MUKESH JAIN
C/O KRISHNALAL
AGED ABOUT 41 YEARS
RESIDING AT: NO.105,
MADHUBAN COMPLEX JC NAGAR
HUBLI, DHARWAD
KARNATAKA – 580 020.

... PETITIONER

(BY SRI MAHAJAN B.K., ADVOCATE)

AND:

STATE OF KARNATAKA
BY SOUTH EAST CEN CRIME, BENGALURU
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU – 560 001.

... RESPONDENT

(BY SMT.B.PUSHPALATHA, ADDL.SPP)

Digitally signed by PADMAVATHI B K
Location: High Court of Karnataka

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 528 OF THE BNSS, 2023 PRAYING TO ISSUE A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION DIRECTING THE XLVII ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU TO CONSIDER AND DISPOSE OF IA.NO.III DATED 03.09.2025, FILED UNDER SECTIONS 497 AND 503 OF THE BHARATIYA NAGARIKA SURAKSHA SANHITA, 2023 (ANNEXURE-B) BY THE PETITIONER SEEKING THE RELEASE OF THE SEIZED PROPERTY WITHIN A PERIOD OF ONE WEEK FROM THE DATE OF RECEIPT OF THE ORDER PASSED BY THIS HON'BLE COURT.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 05.03.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The Petitioner is before this Court seeking the following prayer:

> "i. Issue a writ of mandamus or any other appropriate writ, order or direction directing the XLVII Additional Chief Metropolitan Magistrate, Bengaluru to consider and dispose of I.A.No.III dated 03-09-2025, filed under Sections 497 and 503 of the Bharatiya Nagaika Suraksha Sanhita, 2023 (Annexure-B) by the petitioner seeking the release of the seized property within a period of one weeks from the date of receipt of the order passed by this Hon'ble Court.

ii Pass such other and further orders as this Hon'ble Court may deem fit and proper in the interest of justice and equity."

2. Heard Sri Mahajan B.K., learned counsel appearing for the petitioner and Smt B. Pushpalatha, learned Additional State Public Prosecutor appearing for the respondent.

3. Facts in brief, germane, are as follows:

3.1. One Manish Kumar registered a complaint before the CEN Crime Police Station/Jurisdictional Cyber Crime Police for certain transactions that have taken place between 01-03-2025 and 30-04-2025, on the score that his brother one Rajath Jain, who was engaged in the activity of stock market trading since five years, was defraud of an amount of about ₹4.83 crores, by inducement to invest into unlisted shares. In the course of his trading activities, Rajath Jain came across a Telegram Group titled 'Unlisted Shares' which were allegedly owned and operated by one Akashdeep Singh and his team. He is said to have been induced into investing money in certain unlisted shares through the Telegram Group on the assurance that he would get substantial returns. The inducement is

alleged to have happened by circulating success stories of other investors. Rajath Jain was then informed that he needs to pay an amount of ₹4.5 crores for 3000 shares and after such payment, the shares would be transferred in his favour.

3.2. Acting on the said assurance and due to such inducement, an amount of ₹4.83 crores was transferred to various bank accounts indicated in the said Telegram Group. After receipt of the said transfer, the group itself was deleted. Thereafter, Manish Kumar lodges a complaint on 08-07-2025. Based upon the complaint, a crime in Crime No.250 of 2025 comes to be registered for the offences punishable under Sections 319(2) and 318(4) of the BNS and Sections 66C and 66D of the Information Technology Act, 2000, initially against unknown persons. On 07-08-2025, further statement of Rajath Jain was recorded, wherein the petitioner alongwith several other persons come to be named. In the said statement it is alleged that, Rajath Jain transferred the amounts to one M/s Poonam Steel and other bank accounts and on the advice of Akash Deep Singh, certain amount was transferred to the account of the petitioner as well. The defence of the petitioner

is that none of the bank accounts mentioned in the complaint belong to him.

3.3. On 13-08-2025, a search warrant comes to be issued under Section 96 of the BNSS and the petitioner's residence and other places were searched concerning the crime so registered. Upon completion of the search and seizure, the Police reported before the concerned Court particulars of the seizures done pursuant to the search. The seized items included cash, gold ornaments, silver items, cheque books and bank passbooks, gold photo frames, watches and mobile phones. Aggrieved by the seizure of the aforesaid articles from the house of the petitioner, an application in I.A.No.III under Sections 497 and 503 of the BNSS, is filed before the concerned Court by the petitioner, seeking interim custody of all the articles that were seized from the house of the petitioner. The application is still not disposed of, as on the date of filing of this petition, despite the fact that the concerned Court has heard the arguments of both parties and reserved the application for orders to be passed on 15-10-2025. The concerned Court instead, appears to have posted the matter for clarification. It is

then, the petitioner files the subject petition seeking the afore-quoted prayer.

4. The learned counsel appearing for the petitioner would vehemently contend that the continued detention of seized articles is causing grave prejudice to the petitioner, as certain items that were seized are essential to the petitioner's day-to-day life. Denial of interim custody of articles of the petitioner, who is not an accused, amounts to unjust deprivation of the petitioner's property. The learned counsel submits that the Apex Court way back in 2002, had held that timely consideration of applications seeking interim custody of seized property is imperative. The learned counsel would further place reliance upon the newly added provision in the BNSS. The learned counsel would place reliance upon Section 497 of the BNSS to buttress his submission that the concerned Court is required to pass an order of disposal of the application within 30 days from the date of preparation of the statement. He would submit that despite passage of six months, no order is passed. Therefore, it is in violation of the timeline stipulated under the

BNSS and would thus seek a direction for timely disposal of the application.

5. *Per contra*, the learned Additional State Public Prosecutor Smt B. Pushpalatha would vehemently refute the submissions in contending that, this Court cannot put pressure upon the concerned Court to dispose of the application since, for disposal of the application in accordance with law, certain time would be required for hearing of the parties, but would leave the decision to the hands of this Court.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. The afore-narrated facts are a matter of record. What brings the petitioner to this Court at this juncture lies in a narrow compass. It is, seeking a direction for expeditious disposal of the application filed by the petitioner under Sections 497 and 503 of the BNSS. It, therefore, becomes necessary to notice Section 497 of

the BNSS and it's corresponding provision in the earlier regime, which is Section 451 of the Cr.P.C. They read as follows:

SECTION 497 OF THE BNSS	SECTION 451 OF THE CRPC
"**497. Order for custody and disposal of property pending trial in certain cases**.—(1) When any property is produced before any Criminal Court or the Magistrate empowered to take cognizance or commit the case for **trial during any investigation, inquiry or trial,** the Court or the Magistrate may make such order as it thinks fit for the proper custody of such property pending the conclusion of the investigation, inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court or the Magistrate may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of. *Explanation*.—For the purposes of this section, "property" includes— (*a*) property of any kind or document which is produced before the Court or which is in its custody; (*b*) any property regarding which an offence appears to have been committed or which appears	"**451. Order for custody and disposal of property pending trial in certain cases**.—When any property is produced before any Criminal Court **during any inquiry or trial**, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of. *Explanation*.—For the purposes of this section, "property" includes— (*a*) property of any kind or document which is produced before the Court or which is in its custody, (*b*) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence."

to have been used for the commission of any offence. **(2) The Court or the Magistrate shall, within a period of fourteen days from the production of the property referred to in sub-section (1) before it, prepare a statement of such property containing its description in such form and manner as the State Government may, by rules, provide.** **(3) The Court or the Magistrate shall cause to be taken the photograph and if necessary, videograph on mobile phone or any electronic media, of the property referred to in sub-section (1).** (4) The statement prepared under sub-section (2) and the photograph or the videography taken under sub-section (3) shall be used as evidence in any inquiry, trial or other proceeding under the Sanhita. **(5) The Court or the Magistrate shall, within a period of thirty days after the statement has been prepared under sub-section (2) and the photograph or the videography has been taken under sub-section (3), order the disposal, destruction, confiscation or delivery of the property in the manner specified hereinafter."**	

Section 497 of the BNSS and Section 451 of the Cr.P.C. both, empower the concerned Court or the Magistrate to pass orders for the custody and disposal of property pending trial in appropriate cases. Sub-section (1) of Section 497 of the BNSS, expands the scope of the provision, by enabling the concerned Court or the Magistrate, to pass such orders even during the stage of investigation, a power that was not contemplated under Section 451 of the Cr.P.C. Sub-sections (2) to (5) of Section 497, which have been introduced for the first time under the BNSS, prescribe timelines for the disposal of seized property by the concerned Court or the Magistrate, during the pendency of trial appropriate cases. Sub-section (2) of Section 497 mandates that the concerned Court or the Magistrate, shall within a period of 14 days from the date of production of the property referred to in sub-section (1), prepare a statement of such property containing its description in the form and manner as provided under the concerned Rules. Sub-section (5) of Section 497 mandates that the Court or the Magistrate should, within a period of 30 days after the statement is prepared under sub-section (2) and the photograph or the videography as obtaining under sub-section (3) is taken, pass an

order for disposal, destruction, confiscation or delivery of the property in the manner indicated therein.

8. Therefore, **the timeline for disposal of property that is confiscated is under two provisions of law. One is under Section 497 (2) of the BNSS where preparation of statement of all properties brought before the Court must be done within 14 days from the production of properties and two, under Section 497(5) of the BNSS which mandates the concerned Court to pass an order for disposal of the property within 30 days from the date of preparation of the statement under Section 497(2) of the BNSS. Therefore, in all, the concerned Court is required to pass an order within 45 days from the date of the seizure.**

9. On the bedrock of the mandate of the statute, the timeline in the case at hand is required to be noticed. It is as under:

25-08-2025:	Search and seizure of the petitioner's property takes place.
26-08-2025	Seizure report is prepared by the Police and submitted before the concerned Court.
03-09-2025	Application in I.A.No.III, is filed by the petitioner before the concerned Court, seeking disposal/interim custody of the property under Sections 497 & 503 of the BNSS.
09-09-2025	The date by which the concerned Court ought to have prepared a statement of property under Section 497(2) of the BNSS i.e., 14 days from the production of property before the concerned Court.
18-09-2025	Police file their objections to the application in I.A.No.III, filed by the petitioner under Section 497 and 503 of the BNSS.
09-10-2025	The date by which the concerned Court ought to have passed the order disposing of the property under Section 497(5) of the BNSS i.e., 30 days since the statement of property is prepared under Section 497(2) of the BNSS.
16-02-2026	The date on which the subject petition is filed.

A perusal at the link in the chain of dates would indicate that, the concerned Court has rendered the mandate of the statute nugatory by not adhering to the timeline so fixed under the statute.

10. Timelines fixed under the statute as obtaining under Section 497 of the BNSS have fallen for consideration before the High Court of Allahabad in **KANAK CATTLE FEEDS PRIVATE LIMITED v. STATE OF U.P**.[1] wherein the High Court considers the purport of Section 497 of the BNSS and holds as follows:

"…. …. ….

> 23. From a conjoint reading of the aforesaid provisions indicates that the same are similar. **It further appears that in exercise of power under Section 497 B.N.S.S. the concerned court or the Magistrate is empowered to release the property even during pending the conclusion of the "investigation" which power was earlier not available when the Cr.P.C. was enforced**."

10.1. The Madurai Bench of the High Court of Madras, again considers the purport of Section 497 of the BNSS in the case of **R. SAIJU v. THE SUPERINTENDENT OF POLICE, THENI**[2] and holds as follows:

"…. …. ….

> 32. **It would also be pertinent to refer to Section 497 enacted under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which replaces the Code of Criminal Procedure, under which significant procedural reforms have been introduced regarding the timely disposal of seized property, including vehicles.**

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[1] **Application U/S 528 BNSS No.20 of 2024 decided on 05-09-2024**
[2] **WP. Cri.(MD) No.436 of 2025 decided on 11-07-2025**

> 33. **Section 497 BNSS, which replaced Section 451 CrPC has introduced new proviso from 497 (2) to 497 (5) prescribing a strict timeline of 45 days for completion of the disposal process. As per Section 497(2), an inventory and visual documentation (photographs/videography) of the seized property must be prepared within 14 days of seizure, while Section 497(5) require the Court to pass necessary orders for disposal, confiscation, or release within the next 30 days, ensuring a prompt and efficient process.**
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> 34**. Once time bound disposal becomes the mandate of the law, such specific procedure governing the same must be followed and mechanically adhering to Section 451 CrPC, without considering the NDPS framework and BNSS regime, is against the legislative scheme**."

10.2. Section 497 of the BNSS, as interpreted by the aforesaid two Courts, considers the introduction of new provisions in Section 497(2) to 497(5) which prescribe a strict timeline for completion of the disposal process. This obligation on the Court was not a mandate of the statute under Section 451 of the Cr.P.C. Therefore, Section 497(5) mandates time bound disposal. The concerned Court or the Courts which consider applications under Sections 497 and 503 of the BNSS must, therefore, strictly adhere to the mandate of the statute.

11. Long before the afore-quoted judgments, the Apex Court in the case of **SUNDERBHAI AMBALAL DESAI v. STATE OF GUJARAT**[3], while laying down guidelines for disposal of seized articles, discussed the scope and object of Section 451 of the Cr.P.C. and observed as follows:

> "…. …. ….
>
> **5.** Section 451 clearly empowers the court to pass appropriate orders with regard to such property, such as:
>
> *(1)* for the proper custody pending conclusion of the inquiry or trial;
>
> *(2)* to order it to be sold or otherwise disposed of, after recording such evidence as it thinks necessary;
>
> *(3)* if the property is subject to speedy and natural decay, to dispose of the same.
>
> **6.** It is submitted that despite wide powers, proper orders are not passed by the courts. It is also pointed out that in the State of Gujarat there is Gujarat Police Manual for disposal and custody of such articles. As per the manual also, various circulars are issued for maintenance of proper registers for keeping the mudammal articles in safe custody.
>
> **7.** In our view, **the powers under Section 451 CrPC should be exercised expeditiously and judiciously.** It would serve various purposes, namely:
>
> *1*. owner of the article would not suffer because of its remaining unused or by its misappropriation;

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[3] **(2002) 10 SCC 283**

2. court or the police would not be required to keep the article in safe custody;

3. if the proper panchnama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and

4. this jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.

8. The question of proper custody of the seized article is raised in a number of matters. In *Basavva Kom Dyamangouda Patil* v. *State of Mysore* [(1977) 4 SCC 358 : 1977 SCC (Cri) 598] **this Court dealt with a case where the seized articles were not available for being returned to the complainant. In that case, the recovered ornaments were kept in a trunk in the police station and later it was found missing, the question was with regard to payment of those articles.** In that context, the Court observed as under: (SCC p. 361, para 4)

"*4*. **The object and scheme of the various provisions of the Code appear to be that where the property which has been the subject-matter of an offence is seized by *the police it ought not to be retained in the custody of the court or of the police for any time longer than what is absolutely necessary*. As the seizure of the property by the police amounts to a clear entrustment of the property to a government servant, the idea is that the property should be restored to the original owner after the necessity to retain it ceases. It is manifest that there may be two stages when the property may be returned to the owner. In the first place it may be returned during any inquiry or trial. This may particularly be necessary where the property concerned is subject to speedy or natural decay. *There may be other compelling reasons also which may justify the disposal of the* property to the owner or otherwise in the interest of justice**. The High Court and the Sessions Judge proceeded on the footing that one of the essential requirements of the Code is that the articles

concerned must be produced before the court or should be in its custody. ***The object of the Code seems to be that any property which is in the control of the court either directly or indirectly should be disposed of*** **by the court and a just and proper order should be passed by the court regarding its disposal. In a criminal case, the police always acts under the direct control of the court and has to take orders from it at every stage of an inquiry or trial. In this broad sense, therefore, the court exercises an overall control on the actions of the police officers in every case where it has taken cognizance**."

(emphasis supplied)

9. The Court further observed that where the property is stolen, lost or destroyed and there is no prima facie defence made out that the State or its officers had taken due care and caution to protect the property, the Magistrate may, in an appropriate case, where the ends of justice so require, order payment of the value of the property.

10. To avoid such a situation, in our view, powers under Section 451 CrPC should be exercised promptly and at the earliest.

Valuable articles and currency notes

11. With regard to valuable articles, such as, golden or silver ornaments or articles studded with precious stones, it is submitted that it is of no use to keep such articles in police custody for years till the trial is over. In our view, this submission requires to be accepted. In such cases, the Magistrate should pass appropriate orders as contemplated under Section 451 CrPC at the earliest.

12. For this purpose, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after:

(1) preparing detailed proper panchnama of such articles;

> *(2)* taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and
>
> *(3)* after taking proper security.
>
> …. …. ….
>
> **21. However, these powers are to be exercised by the Magistrate concerned. We hope and trust that the Magistrate concerned would take immediate action for seeing that powers under Section 451 CrPC are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by the Registry of the High Court concerned in seeing that the rules framed by the High Court with regard to such articles are implemented properly**."
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> (Emphasis supplied at each instance)

The Apex Court in the afore-quoted judgment, emphasized on the need for expeditious and prompt disposal of applications under Section 451 of the Cr.P.C. and holds that seized property should not remain in police custody for more than fifteen days to one month.

12. In light of the law laid down by the Apex Court and the High Courts of Allahabad and Madras, and in view of the failure of the concerned Court to dispose of the petitioner's application within the timelines prescribed under Section 497 of the BNSS, the

petition deserves to succeed with the afore-quoted prayer being granted.

13. For the aforesaid reasons, the following:

O R D E R

(i) Writ Petition is **allowed**.

(ii) *Mandamus issues* to the XLVII Additional Chief Metropolitan Magistrate, Bengaluru to dispose of I.A.No.III dated 03-09-2025 filed by the petitioner within a period of one week from the date of receipt of a copy of this order, bearing in mind the observations made by this Court in the course of the order.

Sd/-
(M.NAGAPRASANNA)
JUDGE

bkp
CT:MJ