SYED ROSHAN ZAMIR ALI

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CGHC010294692026 2026:CGHC:43331

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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 1992 of 2026

1. Amar Singh Kanwar S/o Shri Bisahu Singh Aged About 64 Years Through Special Power Of Attorney Holder-Gayatri Devi Kanwar, D/o Amar Singh Kanwar, Aged About 36 Years, Both Are R/o - E-38, Bijli Nagar, Bhilai-03, Ward No. 9, Charauda, District- Durg, C.G.

... Petitioner

versus

1. State of Chhattisgarh Through The Police Station - Purani Basti, District- Raipur, C.G.

... Respondent

For Petitioner	:	Mr. Gaurav Singhal, Advocate
For Respondent	:	Ms. Sunita Manikpuri, Government Advocate

SB: Hon'ble Mr. Justice Parth Prateem Sahu

Order on Board

06.10.2026

1. Petitioner has preferred this petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') assailing the order dated 20.2.2026 passed in Special NDPS Case No.57/2026 by which learned Special Judge (NDPS) Raipur (CG) rejected the application filed by applicant for grant of interim custody of Tata Safari bearing registration No.CG04-QC-0513 (henceforth ‘the vehicle in question’)

2. Facts of the case, in brief, are that petitioner is the registered owner of the vehicle in question, which was seized by the police in connection with Crime No.10/2026 registered in Police Station Purani Basti, Raipur for commission of offence under Section 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act of 1985') as the same were alleged to have been used in illegal transportation of narcotics substance. Applicant claiming himself to be registered owner of said car filed an application for grant of interim custody and the same was rejected by the order impugned, holding that the vehicle sought on suprudnama was seized with illegal narcotic drugs being transported therein and if the vehicle is given on interim custody, possibility of its use in the offence of like nature cannot be denied.

3. Learned counsel for petitioner submits that petitioner is the registered owner of the vehicle in question and in support thereof, copy of registration certificate, insurance etc. are filed along with this petition as Annexure A-3. He submits that petitioner has executed a power of attorney in favour of one Gayatri Kanwar authorizing her to use and maintain the vehicle in question. The vehicle in question was used by accused persons in alleged commission of offence without the knowledge of the petitioner. The vehicle in question is lying

since long in the campus of police station concerned in open sky and under the heat of sun and rains, thereby vehicle is loosing its value day-by-day due to lack of protection from weather, maintenance etc. Conclusion of trial is likely to take long time, no purpose would be served in keeping the vehicle in question parked in the police station campus wherein it would run the risk of deterioration on account of weather and other factors. In support of his submissions, he places reliance on the judgment in the case of **Bishwajit Dey vs State of Assam** reported in **(2025) 3 SCC 241.**

4. On the contrary, learned counsel for the respondent/State opposing the submissions of the counsel for petitioner, would submit that the vehicle in question was seized for carrying illegal narcotic drugs, which is an offence punishable under the provisions of the Act of 1985, therefore, the trial Court has rightly rejected application of applicant for grant of interim custody of vehicle car on suprudnama, which does not call for any interference in exercise of inherent jurisdiction by this Court.

5. I have heard learned counsel for the parties and perused the order impugned as also documents annexed along with this criminal revision.

6. From perusal of the order impugned it appears that the trial Court rejected the petitioner’s prayer on the ground that the

offence in which vehicle was seized is of a serious nature, if the seized vehicle is released on supurdnama, the possibility of its being used again for commission of a similar offence cannot be ruled out. Hence, it does not appear just and proper to release the seized vehicle in question in favour of the petitioner herein.

7. Section 497 (1) of BNSS (corresponding to Section 451 of CrPC) empowers the trial Court for handing over the custody of the property to the rightful owner pending conclusion of the inquiry or trial. Section 497 (1) of BNSS reads thus:-

> "**Order for custody and disposal of property pending trial in certain cases**. (1) When any property is produced before any Criminal Court during an 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."

8. Hon'ble Supreme Court in the case of **Sunderbhai Ambalal Desai (supra)** while dealing with question of proper custody of the seized articles has observed thus:-

> "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:
>
> 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 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 details; 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."

9. In para-17 of the aforesaid judgment, Hon'ble Supreme Court has observed thus:-

> "17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any

point of time. This can be done pending hearing of applications for return of such vehicles."

10. In case of Bishwajit Dey (supra) the Hon’ble Supreme Court has observed thus:-

> “34.This Court is of the view that criminal law has not to be applied in a vacuum but to the facts of each case. Consequently, it is only in the first two scenarios that the vehicle may not be released on superdari till reverse burden of proof is discharged by the accused-owner. However, in the third and fourth scenarios, where no allegation has been made in the charge-sheet against the owner and/or his agent, the vehicle should normally be released in the interim on superdari subject to the owner furnishing a bond that he would produce the vehicle as and when directed by the Court and/or he would pay the value of the vehicle as determined by the Court on the date of the release, if the Court is finally of the opinion that the vehicle needs to be confiscated.”

11. Section 60 (3) of the Act of 1985 says the vehicle involved in the offence under the Act of 1985 is liable to be confiscated. Section 63 provides that in the trial of offences under this Act, whether the accused is convicted or acquitted or discharged, the Court shall decide whether any article or thing seized under this Act is liable to confiscation under Section 60 or Section 61 or Section 62 of the Act of 1985. Thus, it is clear that it is for the Court to decide whether vehicle seized under

the Act of 1985 is liable to confiscation or not. Further, the conveyance seized under the Act of 1985 shall be liable to be confiscation only when the owner of conveyance, who was given an opportunity by the Court, could not prove that the conveyance was used without his knowledge. This apart, Section 36-C of the Act of 1985 envisages that the provisions of the CrPC shall apply to the proceedings before a Special Court and as such, the provisions of Section 457 of CrPC (now Section 497 (1) of BNSS) are also applicable to the proceeding under the Act of 1985. Thus, it is clear that interim custody of vehicle seized under the Act of 1985 can be granted.

12. Keeping in mind the decision of Hon'ble Supreme Court in case of **Sunderbhai Ambalal Desai (supra) and Bishwajit Dey (supra)** and considering the fact that petitioner is not the accused in the crime in question, no useful purpose will be served in allowing the seized vehicle standing idle in open place in the police station under the direct heat of sun and rains, which would certainly deteriorate the conditions of vehicles day-by-day, this Court is of the considered view that the trial Court erred in law by denying interim custody of seized vehicle to applicant, registered owner.

13. Consequently, this petition is allowed. It is directed that vehicle Tata Safari bearing registration mark CG04-QC-0513

shall be released in favour of petitioner herein on interim custody, till conclusion of trial, on his furnishing a personal bond in the sum of Rs.1,00,000/- and one surety in the like amount to the satisfaction of the Court below, on the conditions that:-

- applicant shall not alienate the vehicle in question or part with the possession thereof or change its nature and character during the pendency of the trial.
- applicant shall produce the vehicle in question before the Court below as and when directed.
- applicant shall ensure that the vehicle in question is not used in commission of any offence.
- before release of vehicle in question, documents relating to its ownership etc. shall be duly verified and a proper panchnama of the vehicle in question shall be prepared. The vehicle in question should also be properly photographed and photographs will be made part of record. Engine number and Chasis number of vehicle in question should be also noted for future reference.

14. Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-