2025:PHHC:155773

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50791-2025
Reserved on: 01.10.2025
Pronounced on: 12.11.2025

Amit Tanwar ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vivek Monga, Advocate and
Mr. Arvind Monga, Advocate for the petitioner.

Mr. Rakesh Jangra, AAG, Haryana.

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ANOOP CHITKARA, J.

1. Aggrieved by the dismissal of the application by the Judicial Magistrate Gurugram, on 13th November 2024, for release of the vehicle on superdari, and also the dismissal of the Criminal Revisions by Ld. Additional Sessions Judge, Gurugram, on 08th April 2025 and 20th August 2025, the petitioner, claiming to be the registered owner of the vehicle, has come up before this Court, seeking its release.

2. The vehicle mentioned above [Maruti Swift Car bearing registration No. HR-19P-7167], was seized in FIR No. 622, registered on 10-10-2024 in Police Station Sector 10A, Gurugram, for Commission of offences punishable under sections 110, 115(2), 3(5), 351(3), 117(2) & 118(2) of BNS 2023.

3. The victim had alleged in the FIR about an assault by the assailants who had come in a white car, model ‘Swift’, which had no registered number plate. Later, the investigation led to evidence of the present vehicle's use in the crime, which is sought to be released in this petition.

4. The petitioner has attached a photocopy of the Registration Certificate as Annexure P-2. A perusal of the Registration Certificate reveals that the petitioner, Amit Tanwar, is the registered owner of the car. There is no dispute about ownership or the registration certificate, but the prosecution's dispute and the grounds of dismissal are altogether

different.

5. Vide order dated 13th November 2024, Ld. Judicial Magistrate First Class, Gurugram, dismissed the application for release of the vehicle filed by the petitioner because the police have objections to its release, because it is a case property, and because some of the accused are yet to be arrested.

6. Aggrieved by the dismissal of the said application, the registered owner approached the Sessions Court.

7. Vide order dated 8th April 2025, the Additional Sessions Court dismissed the application by referring to the contents of paragraph 3, in which the word “Auto” was written instead of “Car”. Undoubtedly, in the present age of computers, when lawyers use copy-and-paste, such errors can happen. A simple statement by the lawyer that the words “Auto” meant “Swift Car” would have served the purpose, but it was neither requested by the Applicant nor proposed by the Additional Sessions Judge in pursuit of substantial justice.

8. The petitioner again filed a criminal revision petition before the same Sessions Court, and this time correctly mentioned the vehicle as a car. However, this time, the Additional District and Session Judge found a new ground to dismiss the same and stated that the second revision petition is not maintainable.

9. A perusal of the orders dated 8th April 2025 and 20th August 2025, passed by the Additional District and Sessions Judge, Gurugram, clearly points out that the learned Judge did not do substantial justice.

10. Once the first revision petition was dismissed not on merits but on a technical ground, then the second revision petition was maintainable.

11. I have heard counsel for the parties and gone through the file, and its analysis would lead to the following outcome.

12. This pronouncement deals only with the release of vehicles and none else, and that too only those vehicles which are not required to be confiscated under any Statute or Judicial Orders.

13. In the present case, the statute that has been invoked does not provide for the vehicle's confiscation, as is provided for under §60(3) of the NDPS Act, 1985, §17(1) Haryana

Gauvansh Sanrakshan and Gausamvardhan Act, 2015, [HGSG Act], etc., if a vehicle is used in the commission of a crime, it may be confiscated. In the instant case, the offence is under the BNS, 2023, and, irrespective of the trial's outcome, the vehicle cannot be confiscated for compensation or any other purpose; the only purposes for which the vehicle is required are identification or the collection of evidence from the vehicle and in this category, even perishable items have the same evidentiary status, such as Medico-Legal Certificates, Postmortem Examination Reports, reports from the Forensic Science Laboratory, Chemical Examiners, and Ballistic Experts. It shall be relevant to extract §497 from the CHAPTER XXXVI of BNSS, 2023, that deals with the DISPOSAL OF PROPERTY, and it reads as follows:

> 497. (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.
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> Explanation.—For the purposes of this section, "property" includes—
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> (a) property of any kind or document which is produced before the Court or which is in its custody;
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> (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.
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> (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.
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> (3) The Court or the Magistrate shall cause to be taken the photograph and if necessary, sub-section (1).
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> (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.
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> (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.

14. A vehicle's registration certificate proves not only its details but also those of its registered owner and hypothecation.

15. In Basavva Kom Dyamangouda Patil v. State of Mysore, (1977) 4 SCC 358, decided on 19 April 1977, a three-Judge bench of the Hon'ble Supreme Court holds,

> [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….
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> [6]. It is common ground that these articles belonged to the complainant/appellant and had been stolen from her house. It is, therefore, clear that the articles were the subject-matter of an offence. This fact, therefore, is sufficient to clothe the Magistrate with the power to pass an order for return of the property. 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. We do not agree with the view of the High Court that once the articles are not available with the Court, the Court has no power to do anything in the matter and is utterly helpless.

16. In Sunderbhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283, the Hon'ble Supreme Court holds,

> [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.
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> [18]. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If Insurance company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of

> production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken, and a detailed panchnama should be prepared.

17. In Canara Bank v. State of Punjab, 2005 SCC OnLine P&H 878, decided on September 21, 2005, Single Bench of Punjab and Haryana High Court observed,

> [11]. A tractor is an automobile consisting of mechanical and rubber parts, which by their nature are subject to natural decay. Though the tractor has been released to the bank,—vide order of the Judicial Magistrate 1st Class dated 5th February, 2004, it is of no use to the Bank and is lying idle. It would soon be reduced to junk. The sale of the tractor, would benefit both the bank and the accused. The bank would be able to recover a part of the loan advanced and the civil liability of the accused would stand correspondingly reduced. In my considered opinion, in the fact and circumstances of the present case, even though the tractor is a case property expediency of the situation demands that the bank be permitted to sell the tractor subject to certain terms and conditions.

18. In K.W. Ganapathy v. State of Karnataka, 2002 SCC OnLine Kar 320, decided on June 11, 2002, Karnataka High Court observed,

> [8]. In order to ensure the recovery of value, it is necessary that the Trial Court shall take all necessary diligent steps to get the market value of the property, correctly assessed the photography of the property, properly taken depicting all its features and dimensions and before the property is delivered to the interim custody, the photographs have to be certified by the Magistrate. Further necessary bonds and security to be taken from the person to whom interim custody to be given for the value of the property in order to ensure prompt recovery of value from the person to whom interim custody is given. By following the said safeguards, it is no longer necessary to follow the archaic convention of imposing condition of non-alienation. After all the Court while passing a judicial order of interim custody is guided by the investigation material and other prima facie material, which support the claim and title of the person to whom interim custody is given. Having once given the interim custody to the person who is supposed to be the owner of the property, depriving him to effectively use and exercise the lawful ownership rights would be unlawful.

19. In Sundaram Finance Ltd v. The State of Tamil Nadu, Crl. O.P. No. 5278 of 2007, decided on July 9, 2010, Madras High Court observed,

> [11]. This Court is of the firm opinion that return of vehicles and permission for sale thereof should be the general norm rather than the exception it is today. The clear dictate of the Hon'ble Apex Court in this regard is followed more in the breach than in observance. Given

> the facilities of the modern day, there hardly is any scope to think that evidence relating to vehicles cannot be held in altered form. Causing of photographs and resort to videography, together with recording such evidence as befits a particular case would well serve the purpose. In cases where return of vehicles is sought and the claim therefor is highly contested, resort to sale of vehicle and credit of the proceeds in fixed deposits pending disposal of the case would be to the common good. None gain when the mere shell or the remnants of the vehicle are returned to the person entitled thereto, after completion of the trial. It would be no surprise to find that several vehicles have not been so much as claimed after completion of trial, because of the worthless state they have been reduced to. It is but natural to expect that a person eventually entitled would rather have the sale proceeds together with interest, than nothing at all.

20. When the Court finds that it is no longer necessary to keep the case property under the custody, it had to return the same to the person who is competent to get it.[1] Thus, power is available to the criminal courts under §497 BNSS, 2023, which corresponds to §451 CrPC, 1973, to give permission to the owner or to the persons entitled to sell the case-property even pending enquiry or trial, if the property is subject to speedy and natural decay or in other words, in the facts and circumstances of the case, if the Court is of the view that such permission is required to be granted.[2]

21. The primary reason for the refusal to release the vehicle assigned by the Ld. Judicial Magistrate is the objections raised by the police that the co-accused are yet to be arrested and the vehicle is a case property.

22. If we assume that the co-accused are never arrested or arrested after a considerable time, would it be justifiable to keep the vehicle with the police for ages? If the incident had taken place in a metro or a plane, or by firing from the door of a train, would such vehicles be seized, and hypothetically if yes, for how many years simply because the accused is not available or cannot be arrested? Rather, it would be let off after conducting a forensic science examination and a proper search. Had the incident taken place in a battery-operated rickshaw, usually driven by people with meagre means, or in a taxi, which is hypothecated and monthly installments of loan and interest have to be paid against advanced postdated cheques or standing debit instructions, should the livelihood of such a person be put at stake simply because the incident/accident had taken place in their vehicle?

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[1] Cholamandalam DBS Finance Ltd. V. State, Madras High Court, 2011 SCC OnLine Mad 2910, decided on October 18, 2011, Para 7.
[2] M/s.PMJ Gems and Jewellers Pvt. Ltd. v. State, Madras High Court, decided on 23 March 2021, Crl.O.P No.5254 of 2021, Para 41.

23. If the vehicle is kept in a police parking lot, its value would depreciate, it would rust and decay, and the windowpanes would likely break, the color would fade away, significantly altering its appearance, making it impossible for any person to identify the vehicle. If the vehicle is left in a seized condition, it will lose roadworthiness, turn into junk, and eventually exceed the time limit for which it was designed and approved to run on the roads. Additionally, the case property being stolen, released, or destroyed under misidentification, or lost can also not be ruled out. Further, at the time the vehicle was produced, so many carbon emissions occurred in the process, during extraction, and through rollout from the production line, and immense damage to the planet has already been done.

24. If the vehicles are kept in police custody till the completion of the investigation, not only would the livelihood of all such people be adversely affected and put on the line, but they would also be pushed into deep pits of debt, and the banks that had financed the vehicles would also be affected. Further, this Court cannot lose sight of the fact that the open spaces in and outside the police stations have abundant seized vehicles, and even if those are produced at the time of trial, because of the perennial exposure to the Sun, dust, rain, and storms, it would be challenging for a person to assuredly gauge about its involvement or non-involvement. In case of stolen vehicles, identification becomes even more complicated. Thus, the remedy does not lie in keeping vehicles parked at police stations, but in resorting to digital evidence.

25. Thus, from whatever angle it is seen, keeping the vehicle in police possession for years is not going to serve any purpose. The solution is to record a video of the vehicle and to play the same to the victims/witness(s), so that it can be easily identified. Needless to say, digital evidence can be stored indefinitely simply by upgrading the technology.

26. Given above, the impugned order dated 13-11-2024 passed by the Ld. Judicial Magistrate, Gurugram, dismissing the release application, and orders dated 08-04-2025 and 20-08-2025 passed by Ld. Additional Sessions Judge, Gurugram, dismissing the revision petition, are set aside. The concerned Court, upon verifying the registration certificate and ascertaining that the petitioner is the registered owner of the vehicle sought to be released, shall consider ordering the release of the vehicle to the petitioner. If the vehicle is found to be hypothecated, information about its release will also be sent to the relevant financial agency.

27. On receipt of the orders from any Court, the Investigator/ SHO/ Supervisory Officer

shall, without any unnecessary delay, proceed to take steps for the vehicle's release.

28. The release of the vehicle mentioned above on *superdari* shall be subject to the petitioner taking the following steps, within 60 days, and subject to the conditions mentioned in this order:

A. The forensic science examination and proper search of the vehicle shall be conducted, if required, by the Investigator/SHO, and if not already done.

B. A Mechanical Report shall be prepared by any expert, through the Investigating Agency, if required, by the Investigator/SHO.

C. By following the procedures of Section 63 BSA, 2023 [Corresponding to 65-B of Evidence Act, 1872], photos of the vehicle shall be taken from all directions, photo(s) of the chassis number, Engine number, Registration plates, if any, and photo(s) of the claimant/registered owner with the vehicle sought to be released, with one printout for the Court, two for the Investigator, one for the claimant, and one each for all accused be obtained. The petitioner/registered owner shall bear the cost of the photographs. The digital photographs shall be uploaded to the Investigating Agency's official web page(s).

OR/AND

By following the procedures of Section 63 BSA, 2023 [Corresponding to 65-B of Evidence Act, 1872], the SHO shall direct making a high-quality/high-density video recording of the vehicle from all directions, also from opening the bonnet and cabin, including chassis number and the Engine number, and same to be copied in at least two digital devices, e.g., pen-drives, and the brand-new and unopened pen-drives/ any other device shall be provided by the petitioner to the SHO/IO, and one copy, duly sealed in a parcel, shall be for the Court, and the video shall be uploaded to the Investigating Agency's official web page(s).

D. The Petitioner(s) shall file Affidavit(s) declaring that the Applicant is the registered owner of the vehicle or its purchaser, if the name does not reflect on the registration certificate, and shall annex self-attested copies of all documents of purchase, or authorized agent, or is power of attorney holder of any of the above, and produce the original documents for comparison, and that neither the Applicant nor the registered owner of the vehicle or its purchaser or authorized agent, or power of attorney holder, as the case may be, shall claim any prejudice.

E. The Registration Certificate of the vehicle/purchaser shall be returned to the Applicant by keeping an authenticated copy for the records.

F. Subject to clearing hypothecation, if any, the seizure shall not be construed as any binding, obstruction, or hindrance in the ownership rights of the registered owner of the vehicle, or its subsequent purchaser, who shall be entitled to sell, hypothecate, if not prohibited by any other order issued by any Court or a Quasi-Judicial Authority. Given that all the relevant evidence, if any, has to be collected before releasing the vehicle, following which its owner, registered or otherwise, shall be entitled to make alterations in the vehicle, including a change of colour, exterior, or interior, etc.

29. The photographs, in digital as well as physical, and video-recordings taken above shall be used as evidence in any inquiry, trial, or other proceeding under §497(4) of the BNSS, 2023.

30. This order is subject to compliance within sixty days, failing which it shall eclipse and shall stand being recalled automatically on the 61st day, under §§403 & 528 BNSS,2023 [Corresponding to §§362 & 482 CrPC, 1973] without any further reference to this Court.

31. This Court earnestly believes that the District Judiciary, while adjudicating the applications for the release of vehicles which are not required to be confiscated under any Statute or Judicial Orders, shall not reject the applications for release except by mentioning the reasons and distinguishing the pronouncements of the Hon'ble Supreme Court, as referred to above and the observations made in this order. Needless to say, while allowing the application for release, it shall be open to refer to this order.

32. Registry to send digital copies of this order to all the Judicial Officers of the States of Punjab, Haryana, and UT Chandigarh.

33. **Petition allowed in terms mentioned above**. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

Nov 12, 2025
Anju rani

Whether speaking/reasoned	YES
Whether reportable	**YES**