

C.C. No. 3092/2025

ORDER AT EXH.01

1. The present Criminal Case No. 3092/2025 is instituted on the basis of FIR No. 11168008251473/2025 registered with Una Police Station for the offence punishable under Section 303(2) of the Bharatiya Nyaya Sanhita, 2023. Charge sheet has already been filed by the Investigating Officer and the matter is presently pending before this Court.
2. It is the case of the prosecution that the accused was arrested and during such arrest, one stolen motorcycle bearing Registration No. GJ05 TH 4447 was recovered from his possession. It is further the case of the prosecution that the Investigating Officer drew the seizure panchnama at the time of arrest in presence of panch witnesses.
3. Perusal of the seizure panchnama reveals that in the last paragraph of the said panchnama, the Investigating Officer has specifically mentioned that videography of the panchnama proceedings was carried out. At this stage, it is pertinent to note that as per the statutory mandate under Section 105 of the Bharatiya Nagarik Suraksha Sanhita, 2023, read with Section 185 and Section 106 of BNSS, 2023, it is mandatory for the police officer to record the process of search and seizure by audio-video electronic means, preferably through a mobile phone, and to forward such recording without delay to the concerned Magistrate. The aforesaid statutory provision has been enacted with the object of ensuring transparency in investigation, safeguarding the rights of the accused, preventing false

implication, and strengthening the credibility of the prosecution case by maintaining an unimpeachable chain of custody. The requirement of audio-video recording is therefore not a mere formality, but is intended to ensure fairness and reliability in the criminal justice process.

4. In the present case, the seizure and recovery of the stolen motorcycle is a vital circumstance relied upon by the prosecution to connect the accused with the alleged offence. Therefore, the videography of the seizure panchnama proceedings becomes a material and crucial electronic evidence which goes to the root of the prosecution case. However, though the charge sheet has been filed, the Investigating Officer has not produced the videography recording along with the charge sheet papers. This omission creates serious doubt regarding the preservation of such electronic record and may adversely affect the prosecution case at the stage of trial, unless the said evidence is brought on record at the earliest. Further, it is also relevant to note that electronic evidence requires proper preservation and production in accordance with law. If such evidence is not secured promptly, there remains a possibility of deletion, alteration, tampering or loss of the recording, which may defeat the very purpose of Section 105 BNSS.
5. In view of the above circumstances, this Court deems it necessary to direct the Investigating Officer to produce the videography of the seizure panchnama proceedings, as it is a statutory requirement and also essential for the just decision of the case. Therefore, in exercise of powers vested in this Court

under the provisions of BNSS, and in order to ensure compliance of the mandatory provisions of Section 105 BNSS and for preservation of vital electronic evidence, the Investigating Officer is hereby directed as under: -

FINAL ORDER

1. The Investigating Officer shall produce before this Court the complete original audio-video recording/videography of the seizure panchnama proceedings relating to the recovery of motorcycle bearing Registration No. GJ05 TH 4447, which is stated to have been recorded as per the seizure panchnama.
2. The Investigating Officer shall produce the said videography in a sealed electronic storage media such as Pen Drive / CD / DVD / Memory Card, and shall ensure that the file is produced in its original form without editing or alteration.
3. The Investigating Officer shall further furnish a proper Certificate under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023, certifying the device used for recording, the manner of transfer, the process of preparation of the copy (if any), and stating that the produced electronic record is a true and correct reproduction of the original recording.
4. If the videography is not available for any reason, or if the same has been lost or deleted, the Investigating Officer shall file a detailed written explanation before this Court on the next date, clearly stating the reasons for non-production and non-compliance of Section 105 BNSS.

5. The Investigating Officer shall comply with this order within 07 days from today.
6. It is made clear that non-compliance of this direction without sufficient cause shall be viewed seriously and the Court may draw appropriate adverse inference at the stage of appreciation of evidence, in accordance with law.
7. Office is directed to issue copy of this order to the Investigating Officer through learned Assistant Public Prosecutor for immediate compliance

Pronounced in open Court on this 17th day of February, 2026.

Date- 17/02/2026

Place- Una

(Mr. Neeraj Kumar Yadav)
2nd Additional Chief Judicial Magistrate
Una Ta. Una District Gir Somnath
GJ 01409