

Crl. Misc. Case No.04/2025

Arising out of Spl. (NDPS) Case No. 12/2024
corresponding to Athmallik PS Case No. 222 of 2024
dtd.06.07.2024.

**Debamati Behera, aged about 82 years,
W/o- Purastama Behera,
Vill-Kelapada, PO-Phiringia,
P.S-Phiringia, Dist-Kandhamal.**

..... Petitioner.

- Versus -

State of Odisha

..... Opp. Party.

Later 12.08.2025

ORDER

This order arises out of an application filed under section 457 of Cr.P.C /503 of BNSS r/w sec 52 of NDPS Act arising out of Spl. NDPS Case No. 12 of 2024 corresponding to Athmallik PS Case No. 222 of 2024 pending before this Court with a prayer to release one *MAHENDRA BOLERO XL* vehicle bearing Regd. No. **OD-02-AR-7861**, Chassis No. **MA1WF2GAK72M57442**, Engine No. **GA74M87041**, on the grounds stated therein.

2. The learned counsel for the petitioner contended that the petitioner is the real owner of the seized *MAHENDRA BOLERO XL* vehicle bearing Regd. No. **OD-02-AR-7861**, Chassis No. **MA1WF2GAK72M57442**, Engine No. **GA74M87041**, which having been seized during course of investigation has been at the Athmallik PS premise having been exposed to sun and rain.

Being a valuable property and its value is decreasing day by day due to sun and rain. Hence, the petitioner being the registered owner of the seized vehicle is entitled for the release of the same in her favour on any terms and conditions. The learned counsel also submitted that the vehicle in question has been seized and kept in the

Athmallik PS premises since long and the investigation of this case has not been completed yet and the Investigating Officer has submitted charge sheet in this case keeping the investigation open. The petitioner has also filed the copy of his Registration certificate in respect of the seized vehicle which stands in the name of the petitioner. It is further contended that behind the back of the petitioner and without his knowledge the vehicle has been seized by the I.O of Athmallik PS. Hence, the learned defence counsel submitted to release the vehicle in his favour.

3. The copy of the petition has been served upon the learned Spl. P.P who orally objected for the release of the seized vehicle and prays for rejection of the same.

4. Heard the parties at length. Perused the materials on record. In this case the investigation is yet to be completed, however in the called for report from the I.O, it is seen that the confiscation proceeding against the seized vehicle has not yet been initiated and in the detailed punchnama submitted by the I.O it is mentioned that the vehicle is insured up to 09.02.2025.

In a decision reported in **(2003) 24 OCR (SC)-444 (Sunderbhai Ambala Desai Vs State of Gujarat)** the Hon'ble Apex Court has observed that *"The powers to be exercised promptly and judiciously and the articles should not be kept in the police station for more than 15 days to one month"*.

It is further observed by the Hon'ble Apex court as follows:

"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”.

Further, the authoritative pronouncement of the Hon’ble High Court of Orissa in the matter of **Ashis Ranjan Mohanty Vrs. State of Odisha and others** vide their Judgment dated. 31.01.2022 passed in **WP(C) No. 31622 OF 2021, reported in (2022) 85 OCR 705** in which the principle has been laid down for release of the vehicle stacked in different police stations in the State and **S.O.P** has also been formulated.

The valuation of the vehicle be considered for the purpose of valuation as per the guidelines of Hon’ble High Court of Orissa in the **S.O.P**.

In the above backdrop, and keeping in mind the above cited principle, this court is of the opinion that detention of the vehicle will be beneficial for none and same should be released in favour of the petitioner.

In view of the guidelines of the Hon’ble Court and the documents filed on behalf of the petitioner and the fact that the petitioner being the registered owner of the alleged vehicle, I am of the view that the vehicle may be released in interim manner in favour of the petitioner subject to the following conditions:-

i) the petitioner shall furnish digital photographs and a video clip of the vehicle of not more than minute duration showing the registration number, engine number and chassis number of the vehicle at his own cost and to produce the same before the Court in a Pen drive to be kept in a secured cover in the file. (The images should be in JPG/JPEG/PNG format and the video should be of

MP4/MOV/AVI etc. format. The digital photographs and video clip should carry the date and time of stamp.

ii) the petitioner shall furnish indemnity bond to the extent of valuation of the seized vehicle with one solvent surety for the like amount;

iii) the petitioner shall produce the original registration certificate, insurance paper before the concerned I.O who shall verify properly and true attested copies thereof shall be retained by the Investigating Officer of the concerned excise station;

iv) the petitioner shall not change the colour or any part of the Engine and Chassis number of the vehicle;

v) the petitioner shall furnish hard copy of self-attested photographs of the vehicle from all possible angle in the court;

vi) the petitioner is directed to file an undertaking in shape of affidavit that he shall produce the vehicle as and when required by the Court;

vii) the petitioner shall not sell, mortgage, transfer or dispose of the vehicle to any one till disposal of this case;

viii) if a person to whom the interim custody of the property/vehicle is granted is ultimately found not entitled to it and is unable to return it, its value shall be recovered by enforcing the bonds and the security taken from such person or recovering the monetary value from him as arrear of land revenue;

ix) the petitioner shall not allow the vehicle to be used in the commission of any offence.

The original documents filed by the petitioner shall be released in his favour on proper application subject to substitution of the same by the true copy thereof that in shape of an undertaking that he will produce the same as and when required in connection with this case.

The materials on record shows that the seized vehicle is available in the premises of Athmallik PS . So, the Judge-in-Charge, P.E.S., Athmallik is requested to depute a court official to monitor the taking of digital photographs and recording of video of the seized *MAHENDRA BOLERO XL* vehicle bearing Regd. No. **OD-02-AR-7861**, Chassis No. **MA1WF2GAK72M57442**, Engine No. **GA74M87041**, seized in connection with Athmallik PS Case No. 222 of 2024 dtd.06.07.2024 on the written application of the petitioner. Further, the I.O is also directed to allow the petitioner to take digital photograph and video clip of the seized vehicle in presence of the court official deputed for the purpose. The Investigating Officer is to furnish the name of the person who has taken the photographs and video and furnish a certificate that the same were taken under his supervision along with Appendix-I as per the SOP issued by the Hon'ble Court.

It is made clear that if the seized vehicle has no valid insurance, the IO is directed to provide necessary opportunity to the petitioner to get his vehicle insured.

Further, the petitioner is at liberty to take certified copy of the above order and appear before the I.O for release of the seized vehicle.

An extract of this order be sent to the I.O for information. The direction issued by this Court for compliance should be made in presence of the Investigating Officer and the petitioner.

Further, the petitioner and the Investigating Officer are directed to appear before this Court for recording of their statements to the effect that the above steps have taken place in their presence. The Misc. case is disposed of accordingly.

Send a copy of this order to the Judge-In-Charge,
P.E.S, Athmallik and the IIC of Athmallik PS for
information and necessary action.

Dictated.

Sd/-

Special Judge, Athmallik.