



O.M.C.A.No.268/2026
Abdul Sadik vs. State
CNR NO. MHAM09002280-2026

ORDER BELOW EXH. 1 IN OTH. M.C.A. NO.268/2026
(Dtd. 14.08.2026)

This is an application filed by the applicant under Section 503 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short BNSS.), for seeking interim custody of **01 cow and 01 calf in connection with crime No. 354/2026** for offence punishable under Sections 303(2) of BNS, Sections 5A, 5B, of Maharashtra Animal Protection Act.

02. The applicant submitted that, he is the owner and possessor of seized 02 animals. He is in need of aforesaid animals. He further submitted that, Bramhanwada Thadi police station illegally detained his animals. He further submitted that, the livelihood of his family depends upon those said 02 animals as he is farmer. In the support of his contention, he has placed on the record 7/12 extract, affidavit of Muddasir Ahemad Mohammad Yakub, copy of Aadhar Card and copy of FIR. Lastly, applicant prayed for interim custody of said 02 animals.

03. Say of Investigating officer and learned A.P.P. were called. Investigating officer has filed his say at **Exh.5** and he submitted that, the cow were not found to be ear tagged, the accused was transporting those animals for slaughtering and if those animals are returned to the applicant, the applicant would slaughter them. He also submitted that, the applicant has contravened Government resolution dated 21.05.2026 and 27.02.2024 regarding ear tagged and slaughtering. Hence, he prayed that the application be rejected and he prayed that the say of Pashupati Charitable

Trust be called. The Ld. APP opposed the application by submitting that, if the said cattle is hand over to the applicant it may used for the purposed of slaughtering. Hence, this application be rejected.

04. The Ld. Advocate of the applicant Mr. I. S. Juned argued that, there is no prima-facie material in the FIR except the bare oral allegations showing that the animals seized by the police were transported for slaughtering. He submitted that, there is no iota of material in FIR to prove that, applicant intended to slaughter the animals. He further submitted that, the two animals of the applicant were born to his cow and as such applicant is the owner of the said animals.

05. It must be noted that, under Section 35 of Prevention of Cruelty of Animals Act, the Magistrate before whom a prosecution for an offence against this act has been instituted may direct that the animal concerned shall be treated and cared for in an infirmary until it is fit to perform its usual work or is otherwise fit for discharge or that it shall be sent to a pinjrapole. In the case of **Manager, Pinjrapole Deudar vs. Chakram Moraji Nath+5 (1998) 6 SCC, 520**, the Hon. Apex court held that, under Section 35(2) of the act, the Magistrate has discretion to handover the interim custody of the animals to pinjrapole but he is not bound to hand over the custody of animal to a pinjrapole. In a case where the owner is claiming the custody of animal, the pinjrapole has no preferential right. In deciding whether the interim custody of animals be given to the owner who is facing prosecution or to the pinjrapole, the following factors would be relevant.

1. The nature and gravity of offence alleged against the owner.

2. Whether it is the first offence alleged or he has been found guilty of offences under the Act earlier.
3. If the owner is facing the first prosecution under the Act, the animal is not liable to be seized, so the owner will have a better claim for the custody of the animal during the prosecution.
4. The condition in which the animal was found at the time of inspection and seizure.
5. The possibility of the animal being again subjected to cruelty. There can not be any doubt that establishment of the pinjrapole is with the laudable object of preventing unnecessary pain or suffering to animals and providing protection to them and birds. But if should also be seen.
 - (a) Whether the pinjrapole is functioning as an independent organization or under the scheme of the board and it is answerable to the board and
 - (b) Whether the pinjrapole has a good record of taking care of the animals given under its custody.

06. On perusal of FIR in crime no. 268/2026 it appears that, the police seized the 2 animals from Iqbal Shaha Yusuf Shaha. At that time the police found the aforesaid animals without ear tagged and that they were stolen and were transported on foot for the purpose of slaughtering. Now, except the above facts there is nothing in the FIR to show that the 02 animals which the applicant is claiming were actually transported for the purpose of slaughtering. The bare contentions that the animals were transported for slaughtering can not be relied upon when the animals were transported on foot by the accused and not by any vehicle. Further, the I.O. has relied upon the Government resolution dated 21.05.2026 and 27.02.2024 to prove that, the applicant has not complied with the requirement of ear tagging the animals. It is pertinent to note that, there is no provision in the Animal Preservation Act, which bars this Court from

exercising its power under Section 503 of BNSS on the ground that, the animals seized are not ear tagged. Moreover, only because animals are not ear tagged cannot lead to the inference that those animals were transported for the purpose of slaughtering. In the villages many times farmer may use the animals without ear tag for farming activities but that does not mean that all those animals are intended to be slaughtered. Moreover, the Government resolution which direct the police to take action against slaughtering of bovine animals cannot circumscribe the power of this Court under Section 503 of BNSS. The power under Section 503 of BNSS exercised by this Court is independent power and to exercise the said power the contentions in the F.I.R are material. As discussed above only on the possibility that the animals were taken on foot for slaughtering, the I.O. submits that those animals should not be returned. The F.I.R itself does not contain any prima facie material in the form of any vehicle or any weapon recovered on the spot to show that the animals were taken for the purpose of slaughtering. Further, the submission of I.O. that say of Pashupati Gaushala must be called is not tenable because Pashupati Gaushala is not the necessary party in the present matter. The task assigned to Pashupati Gaushala is to keep the animals in its custody for interim period and look after their basic needs until the Court passes necessary orders. However, the say of Pashupati Gaushala cannot be called to decide the issue regarding the ownership and the possession of those animals.

07. As discussed above there is no evidence on record except bare contentions in the FIR that, the animals were taken on foot for slaughtering. The applicant has placed on record 7/12 extract which shows that, he is farmer and the affidavit of Mudasir Ahemad Mohammad

Yakub also prima-facie proves that, the applicant is the owner and possessor of the 2 animals. Prima-facie it seems that, the applicant is the legal owner of those animals. Under such circumstances, I come to conclusion that, in the present matter there is no prima-facie material and record to show that animals were carried for the purpose of slaughtering and that they were subjected to cruelty.

08. As per the judgment of Hon. Apex court in the case of **Manager, Pinjrapole Deodar vs. Chakram Moraji Nath**, 5 (1998) 6 SCC 520, the Magistrate is not bound to send the animals to pinjrapole. Hence, relying upon the aforesaid judgment, I conclude that the applicant is the legal owner of the 02 animals and is entitled to their custody.

09. The Secretary of the Animal Welfare Board of India issued notification dated 03/05/2018, by which it is directed that every state board to specify the costs of maintenance care and transport within 3 months of commencement of those rules. It was also notified that till the rates are fixed by the state, to follow rates mentioned in the said notification issued by the Secretary of the Animal Welfare Board of India. As per said direction, Maharashtra state board has not issued rules or those are not placed on record by the applicant. Hence, the notification issued by the Secretary of the Animal Welfare Board of India dated 03/05/2018 needs to be followed and those rates are as under:

Class of Animal	Purpose	Suggested Minimum Rates
Bulls	Health Examination, Identification, Colour and Photography, Ear	200/- per animal.

	Tagging	
	Daily maintenance and care for large animals	Rs. 200/- per day per animal.
	Daily maintenance and care for small animals	Rs. 125/- per day per animal.
	Transport	Rs. 20/- per km.

10. In the said crime there are total 02 animals are seized. In view of above notification it is necessary to calculate total amount of expenses relating to maintenance and health inspection of the seized cattle is as under.

Purpose	Suggested Minimum Rates	Calculation
Health Examination, Identification, Colour and Photography, Ear Tagging	200/- per animal	200/- x 02 animals = 400/-
Daily maintenance and care for small animals	200/- per day for one large animal and 125/- per day for one small animal	01 cow x 9 days x 200 = 1800 and 01 calf x 9 days x 125 = 1125 (from 06.08.2026 to 14.08.2026) = 2925/-
	Total amount	3,325/-

11. The seized 02 animals are in custody of Pashupati Gaushala Charitable Trust, Karajgaon, Tal. Chandur Bazar since 06.08.2026. The Trust is entitled to the costs of maintenance. In view of Rule 5(1) and 5(5) of the Rules, 2017, accused and owner are jointly and severally liable for the costs of transport, treatment and care of the animal. The applicant is liable to pay amount of Rs. 3,325/- to the Trust for 02 animals.

12. As per section 3 of the Prevention of cruelty to animals (care and maintenance of case property animals) Rules, 2017, I.O. is duty bound to follow the procedure mentioned in Section 3 of the Rules. In such cases, I.O. shall ensure the health inspection, identification and marking of the seized cattle through the jurisdictional Veterinary Officer deployed at Government Veterinary Hospital of the area.

13. In the light of above discussion, I proceed to pass the following order.

ORDER

1. The application is hereby allowed.
2. The interim custody of seized **01 cow** and **01 calf** in connection with crime No.354/2026 be handed over to the applicant on execution of supurtnama bond of Rs. 2,00,000/- (in words Two Lakh Rupees only) on following conditions;
 - (i) The applicant shall produce seized cattle as and when required by the appropriate authority or by the Court.
 - (ii) The investigating officer shall prepare detailed panchanama of delivery of cattle.
3. Seized 02 animals are presently in custody of Pashupati Gaushala Charitable Trust, Karajgaon, Tq. Chandur Bazar since 06.08.2026. In view of Rule 5(1) and 5(5) of the Rules, 2017, the applicant is liable for the costs of transport, treatment and care of the animal.
4. The applicant is directed to **pay Rs.3,325/-** towards maintenance and health inspection of seized 02 animals to Pashupati Gaushala Charitable Trust, Karajgaon, Tal. Chandur Bazar within 7 days of this order. This amount of

maintenance is for the period from date of custody i.e. 06.08.2026 till today i.e. 14.08.2026 and he shall continue to pay in future the amount of Rs.200/-per day per animal till receiving the possession of said animals.

5. In case of failure to pay the amount as directed above, the said amount be recovered as the arrears of land revenue vide Rule 5(8) of the Rules, 2017.
6. The investigating officer shall take steps as per Rule 3(a) of Rules 2017 to ensure health inspection, identification and marking of the seized cattle through the jurisdictional Veterinary officer deployed at Government Veterinary Hospital of the area and such marking may be done by ear tagging or by chipping or by less irksome advanced technology. The investigating officer is directed to submit compliance report along with photographs in the Court in that behalf. The applicant shall bear the cost of ear tagging the animals and get the animals ear tagged within 7 days and submit the report to IO.
7. The arrangement of custody of seized 02 animals is intermediate.
8. I.O. is directed to obtain residential as well as identity proof of applicant.

Date: 14.08.2026

(M. M. Raut)
Judicial Magistrate (F.C.),
(Court no. 2) Chandur Bazar, Dist. Amravati.