

MHBI090006782026



Order below Exh. 01

The present application is made by the applicant for issuance of warrant for search of his Tractor of New Holend Company bearing registration No. MH-44 D-5688, Engine No. 167048D and Chassis No. NHN3630 SZFH329421 (hereinafter referred as 'Tractor') under section 97 of the Bhartiya Nagarik Surakshya Sanhita, 2023 and for its custody.

Contentions in the application: -

2. That on 13/04/2026, the applicant had parked the Tractor in front of his house. On next day morning, he found the Tractor missing. After inquiry, the applicant came to know that the Tractor is stolen by the non-applicant. The applicant sent written complaint on 28/04/2026 to police station, Majalgaon Gramin against the non-applicant. Thereafter, the non-applicant threatened the applicant on phone call that he would set fire to the Tractor. Police has not taken action against the non-applicant. After inquiry, the applicant came to know from reliable source that the Tractor is kept by the non-applicant at Arihanta Suger Industries Ltd. Jainapur, Taluka Chikodi, District Belgaon. The police asked the applicant to obtain search warrant from court. There is possibility that the non-applicant cause damage to the Tractor. It is prayed to allow the application and issue warrant for search of the Tractor and to handover the Tractor to the applicant.

3. Notice was issued to the non-applicant but he failed to remain present.

4. Heard learned advocate for the applicant Shri. R. K. Gawate. He reiterated contents of the application and submitted that the non-applicant has committed theft of his Tractor and so, search warrant is required to be issued for search of his Tractor. He submitted that the

non-applicant may cause damage to the Tractor or its parts. He prayed to allow the application.

5. Considering contentions and rival submissions of the applicant, following points arise for my determination to which I have recorded my findings for reasons mentioned thereunder;

Sr. No.	Points for determination	Findings
1.	Whether this is fit case to issue warrant for search of the vehicle as prayed?	No.
2.	What order?	Application is rejected.

REASONS

AS TO POINT NOS. 1 AND 2: -

6. The present application is made under section 97 of the Bhartiya Nagarik Suraksha Sanhita, 2023. The provision is as under;

“Section 97: Search of place suspected to contain stolen property, forged documents, etc.

(1) If a District Magistrate, Sub-divisional Magistrate, or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or for the deposit, sale or production of any objectionable article to which this section applies, or that any such objectionable article is deposited in any place, he may by warrant authorise any police officer above the rank of a constable—

(a) to enter, with such assistance as may be required, such place;

(b) to search the same in the manner specified in the warrant;

(c) to take possession of any property or article therein found which he reasonably suspects to be stolen property or objectionable article to which this section applies;

(d) to convey such property or article before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose of it in some place of safety;

(e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or production of any such property or article knowing or having reasonable cause to suspect it to be stolen property or, as the case may be, objectionable article to which this section applies.

(2) The objectionable articles to which this section applies are—

(a) counterfeit coin;

(b) pieces of metal made in contravention of the Coinage Act, 2011, or brought into India in contravention of any notification for the time being in force issued under section 11 of the Customs Act, 1962;

(c) counterfeit currency note; counterfeit stamps;

(d) forged documents;

(e) false seals;

(f) obscene objects referred to in section 292 of the Bharatiya Nyaya Sanhita, 2023;

(g) instruments or materials used for the production of any of the articles mentioned in clauses (a) to (f).”

7. On perusal of the provision of this section, it appears that this provision empowers the magistrate to issue warrant for search of a place used or suspected to be used for the deposit or sale of stolen property. It does not deal with search warrant for any specific property. Though, according to learned advocate for the applicant, the non-applicant has stolen the vehicle, the applicant has to lodge report of theft to concern police station, and the police are required to lodge F.I.R. as the offence of theft is cognizable. Though, it is contended that the applicant sent complaint to police station by registered post, copy of F.I.R. is not produced on record. It is clear that F.I.R. is not registered. In the event of refusal by police to lodge report in case of commission of cognizable offence, the applicant has remedy to send his complaint in writing to Superintendent of Police in view of Section 173 (4) of the Bhartiya

Nagarik Suraksha Sanhita, 2023. However, the applicant has not shown that he made such attempt. The applicant was also having option to apply to the Magistrate seeking direction to police for investigation under section 173 (3) of Bhartiya Nagarik Suraksha Sanhita. It is difficult to believe, specially in absence of registration of offence, that the Tractor is stolen property. Therefore, the application is not tenable. So, I have answered point No. 1 in negative and recorded my finding accordingly. In answer to point No.2, the upcoming order becomes necessary;

Order

The application is rejected.

Date: 04/08/2026

(Ganesh S. Khupse)

Place: Majalgon

Judicial Magistrate First Class,
Majalgon. (Court No. 1)