

MHPU260035912026



ORDER BELOW EXH. NO. 01 IN CRI.M.A. NO.390/2026
(Chandrakant vs. State)

The present application is filed under the provisions of BNSS Act, 2023 for unlock and open the seized business premises i.e, Shivraj Pan Shop, Bhondve Corner, infront of Prathamesh Wines, Ravet, Pune ID No. 105457742203 Registered Receipt No. 2231000316524074 (In short 'Business Premises') of the applicant.

2. The Learned A.PP and I.O. have strongly objected.
3. Heard learned Advocate for applicant and A.PP for state.
4. Police claimed to have seized said business premises of the applicant in connection with Crime Registration No. 152/2026 of Ravet P. S in respect of offence punishable u/s. 26(2)(i), 26(2)(iv) r.w. 27(3)(E), (3)(i), (ZZ) (V) and 30(2)(A) of Food Safety Standard Act and 123, 223, 247, 275 of BNS 2023. The documents produced by the applicant show that, applicant is the owner and possessor of seized business premises. Hence, he is entitled for unlock and open the seized business premises under provisions of BNSS Act, 2023.
5. The Hon'ble Madhya Pradesh High Court Bench at Indore in M.Cr. C. No. 51929/2019 Laduram Vs. State of M.P dt. 16-01-2020 held as under;

"7. According to the rule 2.1.3 of the FSS Rules, 2011, the Food Safety Officer is empowered under Section 38 of the Act, where he is of the opinion or

he has reason(s) to be recorded in writing that in the given situation it is not possible to comply with the provision of Section 38(1)(c) or the proviso to Section 38(1) for reasons like non-availability of the Food Business Operator, the Food Safety Officer may seize the adulterant or food, which is unsafe or sub-standard or mis-branded or containing extreneous matter, may seal the premises for investigation after taking a sample of such adulterant or food for analysis. From the aforesaid provision, it is clear that the Food Safety Officer is empowered to seal the premises for investigation, when the food business operator is not available; whereas, in the present case, all the panchanamas shows that at the time of inspection of Food Safety Officer, the applicant was present in the premises and the samples of food articles were lifted in his presence and his signatures were also sought in all the Panchanamas, therefore, it is not a case, where the Food Safety Officer has power to seized the business premises of the applicant.

8. In the similar situation, the Hon'ble apex court in the case of Nevada Properties Private Limited Vs. State of Maharashtra, AIR 2019 SC 4554, in para Nos. 20 and 21 held as under:-

" 20. Section 102 postulates seizure of the property. Immovable property cannot, in its strict sense, be seized, though documents of title, etc., relating to immovable property can be seized, taken into custody and produced. Immovable property can be attached and also locked/sealed. It could be argued that the word seize would include such action of attachment and sealing. Seizure of immovable property in this sense and manner would in law require dispossession of the person in occupation/possession of the immovable property, unless there are no claimants, which would be rare. Language of Section 102 of the Code does not support the interpretation that the police officer has the power to dispossesses a person in occupation and take possession of an immovable property in order to seize it. In absence of the Legislature conferring this express or implied power under Section 102 of the Code to the police

officer, we would hesitate and not hadle that this power should be inferred and is implicit in the power to the effect seizure.....

21. In view of the aforesaid discussion, the Reference is answered by holding that the power of a police officer under Section 102 of the code to seize any property, which may be found under circumstances that create suspicion of the commission of any offence, would not include the power to attach, seize and seal an immovable property."

9. In the context of the law laid down by the Hon'ble apex Court in the case of Nevada Properties Private Limited(supra), this Court is of the view that power of seizure and forfeiture of immovable property has given to the courts and not to the prosecution authority and if the police officer or other officer has given power to seized the immovable property, it may be chaotic the circumstances.

10. Looking to the aforesaid facts and circumstances of the case, in the considered opinion of this Court, the trial court as well as revisional court have committed error in rejecting the application filed by the applicant under Section 451 of the Cr.PC., seeking the direction to the respondents to unlock and open the seized business premises of the applicant without considering the fact that the Food Safety Officer after seizure of food articles from the business premises of the applicant, has already send the one samples of said food articles to State Food Laboratory, Bhopal and remaining food articles were destroyed by him, therefore, no purpose will be served in locking the said business premises of the applicant.

11. In view of the foregoing discussion, by setting aside of the impugned orders, the present petition is allowed and the respondents are directed to unlock and open the seized business premises of the applicant immediately after receipt of the certified copy of this order."

6. In case in hand the investigation is completed. Therefore, no purpose will be served in locking the said business premises of the applicant. Considering the above ratio and situation it is necessary to unlock and open said business premises of the applicant. The applicant's learned Counsel states the approximate value of the premises as Rupees 10,00,000/-. Necessary conditions may be imposed for identification purpose, during the trial. Hence, the application is allowed as under :

1. The applicant shall execute a supratnama bond before the Asstt. Supdt. of the Court, binding himself in respect of business premises in default, to forfeit the amount of Rs.10,00,000/- to the Government.
2. The applicant shall furnish, at his own expenses, to the Officer-in-charge of Ravet Police Station, two self-attested colour photographs of the said business premises, for its identification purpose. The police officer shall facilitate such photography.
3. The applicant shall execute affidavit stating that he is owner and possessor of said business premises.
4. The Officer-in-charge of Ravet Police Station, shall upon receiving such photographs, countersign the same, prepare a possession receipt-cum-panchanama and verifying original Aadhar card of applicant unlock and open the said business premises i.e, Shivraj Pan Shop, Bhondve Corner, infront of Prathamesh Wines, Ravet, Pune ID No. 105457742203 Registered Receipt No. 2231000316524074 and handover custody of the seized business premises to the applicant and forward the photographs and possession receipt to the Court forthwith.
5. Supratnama Bond, Affidavit, Possession Receipt-cum-panchanama and R & P of this proceeding be tagged with the police report which may be filed in

the above crime.

6. The applicant shall not use said business premises for illegal purpose again.

Place : Vadgaon Maval

Date : 18.07.2026

(S. P. Jadhav)

Judicial Magistrate First class,
Vadgaon Maval.

Certificate

I affirm that the contents of this P.D.F file Judgment / Order are same, word to word, as per the original Judgment / Order.

Name of the Clerk	M. S. Yerole
Name of Court	3rd Jt. C.J.J.D & J.M.F.C. Vadgaon Maval
Judgment / Order dictated on	18.07.2026
Judgment / Order typed on	18.07.2026
Judgment / Order signed by the P.O. on	18.07.2026
Judgment / Order uploaded on	18.07.2026