

MHYA150004852025



ORDER BELOW EXH.10 IN R.C.C. NO. 60/2025

(Passed on 03.10.2025)

This is an application filed by the applicant Sayyed Zuber Sayyed Idris under section 497, 503 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for releasing the seized vehicle i.e. Tractor, bearing registration No. MH-30-AB-6641, DI-42RX Chassis No. LZYSD322780S3, Engine No.3100EL123L322262F3. Said tractor is seized by Police Station, Ner, in Crime No.165/2025 for an offence punishable under Section 303 (2) of the Bharatiya Nyay Sanhita, 2023 R/w Section 48(7) and 48(8) of Maharashtra Land Revenue Code,1966.

2. Further the applicant submitted that, it is arbitrary and injustice act of police agency. The tractor is falsely implicated by police. The tractor belongs to Sunil Lakshmanrao Pawar. The applicant purchased said tractor from Sunil Pawar. There is agreement of sale dated 20.01.2025. The actual owner Sunil Pawar purchased said vehicle on finance from Mahindra Finanace. The tractor is very essential for applicant for use of agriculture and the said tractor is only earning source of the applicant. The applicant stated that, he is entitle to get possession of the said tractor and he is ready to abide any conditions imposed by the court. Therefore, he prayed for grant application.

3. On this application say of the investigating officer, the say

of Collector, say of Mahindra Finance, say of accused and the learned APP were called.

4. The learned APP has filed say at Exh.12 and raised objections on grounds that, R.C. Book of the vehicle in the name of Sunil Pawar, applicant is not original owner, there is penalty imposed by Tahasildar Officer Ner. Further, learned APP stated that, if the said vehicle release then applicant may again use it for similar illegal activities. Hence, pray to reject the application.

5. The investigating officer has filed say at Exh.11 and prayed for suitable order by imposing conditions.

6. It is pertinent to note that, it is case of the prosecution that, the accused alleged to have committed an offence under section 303(2) of the Bharatiya Nyay Sanhita and section 48(7) and (8) of the Maharashtra Land Revenue Code. It is alleged that, accused involved in illegal transportation of sand.

7. The police stated that, for taking punitive action regarding the sand and minerals in the tractor. They send letter to the Tahsildar Ner, the Tahasil Office Ner prepared a panchnama.

8. It is stated by the police that, the Tahasil Office Ner prepared panchnama, so that called say of their office.

9. The letters were sent to Collector to submit a report on whether confiscation proceedings have been initiated or pending. The Tahasildar Ner has filed their say at Exh.22 and 23 but, in that

say nothing is mentioned about whether confiscating proceeding initiated or not.

10. It appears that, the tractor in the present case was purchased from Mahindra Finance by the original owner. Therefore, the say of Mahindra Finance and the original owner were taken.

11. The Mahindra Finance filed their say at Exh.16 and stated that, they have no objection to release tractor in the favour of Sunil Pawar.

12. The original owner Sunil Pawar has filed pursis at Exh.24 and stated that, he purchased the said tractor on finance of Mahindra. There is agreement to sale between present applicant and him regarding said tractor. He has no objection to handover said tractor in the favour of the applicant.

13. Considering the contention in the application and submission of learned APP, Tahasil Office, Mahindra Finance and accused, following points arise for my determination which are produced along-with my findings thereon, for the reasons stated as under :

Sr.No.	POINTS	FINDINGS
1.	Whether this court has jurisdiction under section 497 of the Bharatiya Nagarik Suraksha Sanhita to release seized vehicle ?	Yes.

2. Whether the applicant is entitled to interim custody of the said vehicle ? If Yes.
yes, on what terms and condition ?
3. What order ? As per final order.

REASONS

As to point No.1-

14. The Maharashtra Land Revenue Code, 1966 is special law, it contain special procedure under section 48 for confiscation by the Collector.

15. It is necessary to mention here that, on perusal of record and say of the Collector Office, Tahsil Office it appears that, in their say nothing mentioned about whether confiscation proceeding is initiated or pending. In the say at Exh. 22 and 23, the Tahasil Office stated that the applicant paid the penalty amount as per the order of the Tahsildar. But, the payment of the penalty which imposed by Sub-Division officer Darwha is pending. Therefore, Tahsildar Ner has requested that the vehicle not be released until the applicant pays the fine for the vehicle.

15. It is clear that, confiscation proceeding is not initiated. Therefore, this Court retains jurisdiction to act under section 497 of the Bharatiya Nagarik Suraksha Sanhita. It is necessary to mention here that, section 48 of the Maharashtra Land Revenue Code, 1966 gives jurisdiction to Revenue Authority to seize vehicle used in illegal transport of sand and minerals and to start confiscation proceeding.

But, this section also required that, the seized vehicle must be produced before the Collector within a statutory period for initiating confiscation. In the present matter confiscation has not been initiated. Only because of in the above crime section 48 of the Maharashtra Land Revenue Code is attracted does not automatically take away Magistrate power. Hence, I answer point No.1 in the positive.

As to point No.2-

17. The original owner is Sunil Pawar. The R.C. Book is in name of Sunil Pawar. On perusal of record it appears that, the letter of Power of Attorney executed by the Sunil Pawar in the favour of the applicant. Furthermore, the Sunil Pawar appeared before the Court and filed pursis along with verified copy of his Adhar Card. It appears that, the original owner has no objection to handover the custody of said tractor in the favour of the applicant. Furthermore, the original owner stated that, there is agreement to sale between applicant and him but, due to payment of EMI of the Mahindra Finance agreement to sale cannot executed. In such circumstance, it appears that, the applicant is entitled to get custody of the said vehicle.

18. The fact that fine has already imposed by Tahsildar and Sub-Divisional Officer Darwha under Maharashtra Land Revenue Code, 1966 does not automatically prevent the court from ordering release of vehicle on supratnama. This Court has jurisdiction to decide the said application of supratnama to release vehicle even

after the penalty imposed by the Revenue Authority.

19. If, the vehicle is kept lying in the premises of Police Station, Ner, it will be damage and will cause lost to the applicant. Except, the applicant, no one has claimed custody of seized property.

20. The charge-sheet is filed in the present offence. Said tractor does not seem to be needed anymore for the sake of investigation. However, to be on the safer side the Police Station, Ner shall prepare a panchanama of said vehicle and take its three colour photographs. Said panchnama and photographs shall submit before the Court.

21. In the light of aforesaid discussion, I not found any substance in the submission of Ld. APP that the applicant is not proper person to get custody of the seized tractor. I have satisfied myself that the applicant is entitled for the interim custody of said tractor. Considering the say of original owner, say of police and letter of power of attorney which executed in the name of the applicant. In such circumstances, I do not see any reason to deny the applicant's prayer for releasing said tractor in his custody. Hence, I answer point No.2 in the positive.

As to point No.3 -

22. Apart from the applicant till date nobody has claimed the said tractor. Investigating Officer has given his no objection to release tractor in the custody of the applicant.

23. The applicant has filed this application under section 497 and 503 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The section 503 of the Bharatiya Nagarik Suraksha Sanhita, 2023 only when property is seized by police and not yet produced before the Court (Pre-charge sheet stage). Once charge-sheet is filed jurisdiction shifts under section 497 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Even if the vehicle is still in police station physically, as per the legal procedure it is before the court once charge-sheet is filed. The seized vehicle is constructively before the Court. Hence, section 497 of the Bharatiya Nagarik Suraksha Sanhita is applicable not a section 503 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

24. In the light of aforesaid discussion, reasons considering the says filed on record and in view of the directions of the Hon'ble Supreme Court in the matter of ***Sunderbhai Ambalal Desai V/s. State of Gujrat (A.I.R. 2003 Supreme Court 638)***, as to point No. 3, I pass the following order.

ORDER

1. Application is allowed.
2. The Police Officer, Police Station, Ner is hereby directed to released seized vehicle i.e. Tractor, bearing registration No. MH-30-AB-6641, model, DI-42RX, Chassis No. LZYSD322780S3, Engine No.3100EL123L322262F3 which was seized in Crime No.165/2025, in the custody of the applicant on executing indemnity bond of Rs.15,00,000/-.

3. The applicant shall deposit the amount of penalty imposed by Sub-Division Officer, Darwha. This deposit amount of penalty shall be without prejudice to the right of the parties and subject to adjustment in any final order passed by the Collector or Revenue Officer under section 48 of the Maharashtra Land Revenue Code, 1966.
4. The applicant is strictly directed not to alienate, sell, change or disposed of the seized tractor in any manner till, final decision of above said crime of case and produce it as and ordered or required by the court.
5. Breach of any above condition will liable for the cancellation of bond.
6. The Police Officer, Police Station, Ner is directed to take three colour photographs of said vehicle and prepare a panchanama. Said photographs and panchnama shall submit before the Court.
7. Copy of this operative order be sent to the office of the Police Officer, Police Station, Ner for necessary action.
8. The applicant shall submit a bond duly executed by him before the Police Officer, Police Station, Ner.

(order pronounced in the open Court.)

Ner.
Date : 03.10.2025

(G.C. Fulzalke)
Judicial Magistrate First Class, Ner.

CERTIFICATE

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

Name of Stenographer :- Ku. B. N. Nare (Grade-III)

Court :- C.J.J.D. & J.M.F.C., Ner.

Date :- 03.10.2025

Order signed by
the Presiding Officer on :- 03.10.2025

Order uploaded on :- 03.10.2025