



Cri. Revision Pet. No. 104/2026
Nand Kishore vs. State
Date 04.08.2026

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IN THE COURT OF ADDITIONAL SESSIONS JUDGE NO. 03

BHILWARA, RAJASTHAN

Presiding Officer- Pawan Kumar Kalla, RJS

{District Judge Cadre}

Criminal Revision Petition No. 104 of 2026

CNR NO. RJBW 01-001870-2026

Nand Kishore S/o Shri Chhotu Lal Kumawat, Resident of
Malkhera, Tehsil Shahpura, Bhilwara, Rajasthan.

...Petitioner (Supurdgidar)

Versus

State of Rajasthan, through the Public Prosecutor, Bhilwara.

...Respondent

**Criminal Revision Petition against the
Order dated 01.05.2026, Passed by Mr.
Nagendra Singh, Ld. Chief Judicial
Magistrate Bhilwara, In Criminal Misc.
case Titled Mahendra Singh vs State of
Rajasthan arising out of FIR No. 15 of
2026, Police Station Pratap Nagar,
Bhilwara under Section. 3,4,5,7
Immoral Traffic (Prevention) Act, 1956.**

Present-

- 1 Mr. Chandra Shekhar Chturvedi Ld. Advocate for
Petitioner/Supurdagidar.
- 2 Ld. Adl. Public Prosecutor for State of Rajasthan

ORDER

Date 04-08-2026

1. The revision petition, initially presented before the Court of Sessions, Bhilwara, on 30.05.2026, which was transferred to this Court.

2. The present criminal revision petition has been preferred by the petitioner/supurdgidar under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short BNSS), challenging the order dated **01.05.2026** passed by the learned



Chief Judicial Magistrate, Bhilwara, in Criminal Miscellaneous Case arising out of FIR No. 15 of 2026, Police Station Pratap Nagar, Bhilwara, registered for offences under Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956.

Factual Matrix-

3. Briefly stated, the facts of the case are that Shri Sajjan Singh, Circle Officer, Circle Bhilwara, recorded a *parcha* stating that reliable information had been received from a informer that a spa and beauty salon operating under the name “**Mansarovar Spa and Beauty Salon**”, situated near Mansarovar *Jheel*, Bhilwara, was being used as an illegal prostitution centre under the guise of providing body massage services. Acting upon the said information, the Circle Officer, accompanied by the police team, conducted a raid at the premises. During the raid, a woman allegedly accepted money from a decoy customer. Thereafter, search proceedings were conducted and several persons, namely Ramratan Kumawat, Arak Chaturvedi, Kailash Jat, Jagdish Prajapati, Rajni Rawat, Ms. Chhayyappa, Keth Wathai, Payal Sharma, Laxmi Saini and Salza Khatoon, were apprehended. Upon the aforesaid *Parcha* FIR No. 15/2026 was registered at Police Station Subhash Nagar, Bhilwara, for offences punishable under Section 3,4,5,7 of the Immoral Traffic (Prevention) Act, 1956.

4. During the course of investigation, various articles, including a mobile phone belonging to the petitioner, were taken into possession. The recovery of the mobile phone was mentioned in the arrest memo; however, no separate seizure memo was prepared in respect thereof. The petitioner thereafter moved an application before the learned CJM seeking release of the mobile phone realme narzo 30 A bearing **IMEI No. 860993076580658, 860993076580641** on supurdgi.

5. The learned Chief Judicial Magistrate, Bhilwara (hereinafter referred to as “the learned CJM”), while deciding the



aforesaid criminal miscellaneous application, allowed the petitioner's application seeking release of the seized mobile phone on supurdgi. However, the learned CJM imposed a condition no. 4 that the mobile phone shall be released only after the petitioner furnishes a certificate under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023, certifying the material or data available in the said mobile phone. Aggrieved by the imposition of the said condition, the petitioner has preferred the present revision petition.

6. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the State. Perused the impugned order and the record.

Submissions of Petitioner-

7.1 During the course of arguments, learned counsel for the petitioner submitted that the condition no. 4 imposed by the learned Chief Judicial Magistrate is contrary to the settled principles of law. It was contended that although the seized mobile phone belongs to the petitioner, it was taken into possession by the police at the time of the arrest of the accused persons. Though the recovery of the mobile phone was mentioned in the arrest memo, no separate seizure memo was prepared at that time. Since the date of its recovery, the mobile phone has remained in the custody of the police and was never in the possession or use of the petitioner.

7.2 It was further argued that under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023, the person issuing the certificate is required to certify the authenticity of the electronic record, including that the data contained in the electronic device is genuine, has not been tampered with, and that the device was functioning properly. Since the mobile phone remained in the exclusive custody of the police, was not sealed after its recovery, and continued to remain at the police station without any seal, the petitioner is not in a position to certify the authenticity or



integrity of the data stored therein. Therefore, the petitioner cannot legally be compelled to furnish a certificate under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023.

7.3 Learned counsel further submitted that before the trial Court, the learned Public Prosecutor never raised any objection to the release of the mobile phone nor sought imposition of such a condition. The learned trial Court, on its own, imposed the impugned condition, which is beyond the scope of proceedings under Section 503 of the BNSS. It was also submitted that on 23.01.2026, the investigating officer had not prepared any separate seizure memo in respect of the mobile phone. Subsequently, on the direction of the learned trial Court, a separate seizure memo was prepared after a considerable lapse of time. During the intervening period, the mobile phone remained in police custody without being sealed, making it impossible for the petitioner to certify the integrity of its contents. It was, therefore, prayed that the condition requiring the petitioner to furnish a certificate under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023, be set aside and the mobile phone, namely **realme narzo 30 A bearing IMEI No. 860993076580658, 860993076580641** be released to the petitioner without the said condition.

Submission of Adl. P.P.-

8 Per contra, learned Additional Public Prosecutor opposed the revision petition and submitted that the mobile phone seized by the investigating agency constitutes an important piece of evidence. The electronic data stored therein, including images, communications, messages, and other digital records exchanged between the accused persons and other individuals, may be relevant for the purpose of investigation and trial. Therefore, the authenticity of such electronic evidence must be preserved. It was contended that the condition imposed by the learned Chief Judicial Magistrate is in accordance with law



and is intended to safeguard the evidentiary value of the electronic record. Accordingly, it was prayed that the revision petition be dismissed.

Question before this court-

9. I have given my thoughtful consideration to the rival submissions advanced by the learned counsel for the petitioner and the learned Additional Public Prosecutor, and have carefully perused the record. The point for determination before this Court is,

"Whether the Condition no.4 imposed by Ld. CJM, vide order dated 2.05.2026 is legal, correct and appropriate?"

Finding of Court-

10.1 It is apparent from the record that the mobile phone in question was found in the possession of one of the accused persons arrested during the raid conducted at the aforesaid spa centre. However, at the time of arrest, no separate seizure memo was prepared in respect of the said mobile phone. Its recovery was merely mentioned in the arrest memo of the concerned accused. Subsequently, the Investigating Officer of Police Station Pratap Nagar, Bhilwara, prepared a separate formal seizure memo and formally seized the mobile phone. The Investigating Officer also prepared a memo indicating that certain chats, communications, and other electronic data relevant to the investigation had been found in the device, whereafter the mobile phone was sealed.

10.2 The learned Chief Judicial Magistrate, having found that the petitioner is the owner of the mobile phone, rightly ordered its release on supurdgi. However, It is equally evident from the record that after the mobile phone was taken into possession by the police on 23.01.2026, it remained in police custody till 6.02.2026 and was not in the possession or use of the



petitioner. It is also not disputed that initially no separate seizure memo was prepared and the device remained with the police before it was formally seized and sealed. In these circumstances, the petitioner cannot reasonably be compelled to furnish a certificate under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023, certifying that the electronic data contained in the device is genuine, has not been tampered with, and that the device was functioning properly. Such certification can ordinarily be given only by a person who satisfies the statutory requirements and is competent to certify the integrity of the electronic record. Therefore condition imposed by Ld. CJM cannot be said to be legal.

10.3 At the same time, the contention of the prosecution cannot be ignored. The case pertains to offences under the Immoral Traffic (Prevention) Act, 1956, and the material available in the mobile phone, including chats, communications, call details, images, and other electronic records, may constitute vital evidence for the purpose of investigation and trial. Such electronic evidence deserves to be preserved in accordance with law. Therefore, instead of requiring the petitioner to furnish a certificate under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023, the ends of justice would be adequately served if the mobile phone is first sent to the Forensic Science Laboratory (FSL) for forensic examination. The FSL shall examine the device and certify, in accordance with law, the authenticity and integrity of the electronic data stored therein, including whether the data has remained intact and unaltered and, wherever necessary, verify the hash value and other relevant forensic parameters.

Conclusion-

11. Accordingly, **Condition No. 4** of the impugned order dated **01.05.2026** is modified to the extent that, instead of requiring the petitioner to furnish a certificate under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023, the Investigating



Officer shall forthwith send the mobile phone to the Forensic Science Laboratory for examination and obtain the requisite forensic report along with copy of data stored in mobile phone in CD or Pendrive. Upon receipt of the FSL report & CD/Pendrive, the mobile phone shall be released to the petitioner in terms of the order of the learned Chief Judicial Magistrate, subject to the other conditions contained therein.

12. Consequently, the present criminal revision petition stands **allowed in the aforesaid terms**, and the impugned order is modified to the extent indicated above.

(Pawan Kumar Kalla)
Adl. Sessions Judge No. 3
Bhilwara.

13 Order Pronounced today i.e. dated 04.08.2026
in open court under my sign and seal.

(Pawan Kumar Kalla)
Adl. Sessions Judge No. 3
Bhilwara.