

IN THE COURT OF THE SESSIONS JUDGE, BOUDH

Present: Shri Pratap Kumar Patra,
Sessions Judge, Boudh
(J.O.Code No.OD00168).

Dated this the 27th day of July, 2026.

Misc. Case No.11/2026

(CNR NO. ODBU01-000197-2026)

[Arising out of 2(a)CC Case No. 08/2026 (NDPS) corresponding to P.R. No.241/2025-26, dated 19.02.2026 of Sub-Inspector of Excise, District Mobile Squad, Boudh]

Pratap Pradhan, aged about 26 years,
Son of Rabindra Pradhan, Resident of
Village-Baghiapada (Durgaprasad),
P.S./District- Boudh. Petitioner.

Versus.

State of Odisha. Opp. Party.

Counsel for the petitioner: Sri T.R.Tripathy & Sri P.Mishra,
Advocates, Boudh.

Counsel for the Opp. Party: Miss Sabita Kumari Panda,
P.P.,Boudh.

Date of hearing : 14.07.2026

Date of Order : 27.07.2026

O R D E R

This order arises out of a petition filed under Section 503 of B.N.S.S., 2023 wherein the petitioner has sought for interim release of the seized Bajaj Maxima Auto Rickshaw bearing Regd. No.OD-27E-1710 by the Sub-Inspector of Excise, District Mobile Squad, Boudh vide P.R. No.241/2025-26, dated 19.02.2026 corresponding to 2(a)CC Case No. 08/2026 in his favour claiming to be the bona-fide owner of the same.

02. It is submitted by the learned counsel for the petitioner that

the vehicle in question bearing Regd. No. OD-27E-1710 having its Engine No.BBXWSA33689 and Chassis No. MD2B45AX4SWA07035 was seized by the Sub-Inspector of Excise, District Mobile Squad, Boudh on the allegation that the aforesaid vehicle was involved in transportation of *ganja*. It is also pleaded that from the date of the seizure of the said vehicle it has been kept in Excise Malkhana premises in a neglected manner being exposed to sun and rain for which there is every possibility of natural decay of the said vehicle, if it will be kept in such condition for more days. It is also averred that in the meanwhile major part of investigation of the case has been completed for which further detention of the said vehicle for the purpose of investigation is not required.

03. On the other hand the learned P.P. submitted that the vehicle in question has been used for transportation of ganja, which is an offence against a healthy society. It is the further contention of the learned P.P. that release of the vehicle will encourage the culprits of the same propensity.

04. In support of his contention the learned counsel for the petitioner filed computer generated copy of Smart Card, computer generated Insurance Certificate, original Aadhaar Card of the petitioner so also certified copy of Form No.C-2.

05. During pendency of the Misc. Case, direction was given to the R.T.O., Boudh and the Inspector of Excise, Boudh to submit the valuation report of the vehicle. The Jr. Inspector of Motor Vehicles, Boudh vide letter dated 29.06.2026 submitted the valuation report of the seized Babaj Maxima Auto Rickshaw which would be Rs.1,80,000/- (Rupees One Lakh Eighty Thousand) at the present market price.

06. Perused the documents of the vehicle and the certified copy of the seizure list filed by the petitioner. The admitted position is that the aforesaid Bajaj Maxima Auto Rickshaw bearing Regd. No. OD-27E-1710 having its Engine No.BBXWSA33689 and Chassis No.

MD2B45AX4SWA07035 has been seized as it was involved in transportation of *ganja* in connection with 2(a)CC Case No.08/2026 corresponding to P.R. No.241/2025-2026, dated 19.02.2026 under Section 20(b) (ii)(B) of the NDPS Act and is now kept in the premise of Excise Station, Boudh.

07. On verification of the computer generated Smart Card, computer generated copy of the Insurance Certificate of the vehicle it is found that the papers relating to the vehicle stand in the name of the petitioner corresponding to the vehicle bearing Regd. No. OD-27E-1710 having its Engine No.BBXWSA33689 and Chassis No. MD2B45AX4SWA07035. On further verification of the insurance certificate issued by SBI General Insurance Co. Ltd., it is found that the vehicle in question is valid from 30.04.2025 to 29.04.2026.

08. As per the legal principle enunciated in the case of *Sundar Bhai Ambala Desai vrs. State of Gujarat (2003) 24 OCR (SC) - 444*, the powers under Section 451/457 Cr.P.C. should be exercised expeditiously and judiciously. It would serve various purposes, namely:-

1. Owner of the article would not suffer because of its remaining unused or by its misappropriation;
2. Court or the police would not be required to keep the article in safe custody;
3. If the proper panchanama before handing over possession of article is prepared, that can be used in evidence instead of its production before the Court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and
4. This jurisdiction of the Court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.

09. However, the question here is whether the vehicle which is

allegedly involved in commission of the alleged offence under the NDPS Act is liable for confiscation under Section 63 of the NDPS Act and hence, cannot be released even to the bona fide owner of the vehicle. The further ask is whether Section 503 of BNSS, 2023 can be applied to proceeding before Special Court established under the NDPS Act.

10. In this regard Sections 60, 63 and 36C of the NDPS Act and Section 503 of BNSS, 2023 are relevant provisions in the given facts and circumstances of this case. Section 60 deals with liability of illicit drugs, substance, plants and articles and conveyance to confiscation, whereas Section 63 deals with procedure in making confiscation. Section 36C of the NDPS Act provides for application of Criminal Procedure Code to the proceedings before the Special Court established under NDPS Act to the extent it is not inconsistent with provisions of the NDPS Act. Section 503 of BNSS provides for passing order for custody and disposal of property not produced before the court pending inquiry and trial in certain cases.

11. It may be stated here that law is no more *res integra* that prayer of release of seized vehicle cannot be rejected solely on the ground that Section 60 (3) of the NDPS Act creates a bar for release of the vehicle seized in the course of the commission of the offence under the Act. In the present case the petitioner claims to be the owner of the vehicle and he is not accused in the case. The charge sheet has not yet been submitted by the Enquiring Officer (E.O.), and accordingly, a report was called for from the E.O. as to whether the vehicle bearing Regd. No. OD-27E-1710 is required for the purpose of investigation or not. The S.I. of Excise has intimated that the aforesaid Bajaj Maxima Auto Rickshaw is not required for the purpose of investigation. The accused involved in this case has already been released on bail by the order of the Hon'ble Court on 20.04.2026.

12. The identity of the petitioner as owner of the vehicle has been

verified vis-a-vis computer generated Smart Card, computer generated Insurance Certificate and certified copy of the seizure list i.e. Form No.C-2. Further it is also ascertained through Aadhaar Card of the petitioner. On overall verification of the above mentioned documents it is evident that the petitioner is the true owner of the seized vehicle.

13. Our Hon'ble High Court has in **(Rajesh Kumar Sahu - versus- State of Odisha)** vide their Order dated 13.03.2025 in CRLREV No.553 of 2024 observed as follows:

11. If left unattended indefinitely, the vehicle will inevitably suffer structural degradation, mechanical wear, and a substantial diminution in both its functional utility and economic value, rendering it unfit for future use. The law does not sanction the indefinite retention of property where its custody ceases to advance the cause of justice. Rather, the established legal principle dictates that seized property should be preserved and safeguarded, not subjected to unnecessary deterioration and waste.

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14. In light of the aforementioned judicial precedents, the release of the vehicle emerges as the most judicious course of action. Keeping the vehicle immobilized for an indefinite period does not advance the prosecution's case and only results in an unjustifiable loss to the registered owner.

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14. On the above backdrop and on examination of the facts and circumstances of the case at hand especially when the vehicle is exposed to sun and rain since the date of seizure i.e. on 19.02.2026, it is felt expedient to issue an order for interim release of the seized vehicle in zima of the petitioner lest there is every possibility of further deterioration of the seized vehicle. Hence, it is ordered:

ORDER

The petition under Section 503 of B.N.S.S., 2023 is allowed. The Bajaj Maxima Auto Rickshaw bearing Regd. No. OD-27E-1710

having its Engine No. BBXWSA33689 and Chassis No. MD2B45AX4SWA07035 seized in connection with P.R. No.241/2025-26, dated 19.02.2026 is hereby released in the interim custody of the petitioner Pratap Pradhan, aged about 26 years, S/o Rabindra Pradhan, Village- Baghiapada (Durgaprasad), P.S./District- Boudh till disposal of 2(a)CC Case No.08/2026(NDPS).

The petitioner shall at his own cost furnish four numbers of colour positive photographs of the seized vehicle, depicting its front and rear side so also both the sides before taking the vehicle in his zima.

Further, the petitioner is directed to furnish indemnity bond of Rs.1,80,000/-(Rupees One Lakh Eighty Thousand) only and property security of one surety of the same worth incorporating the following conditions therein:-

- (i) the petitioner shall not sell, dispose of the seized vehicle or transfer the ownership of the same in favour of any other person in any manner, while the same is in his interim custody and shall produce the vehicle in question in the Court as and when required and directed to do so;
- (ii) shall not change the colour or any part of the engine number and chassis number of the vehicle, while the same is in his custody;
- (iii) shall not use for himself or allow the seized vehicle to be used by any other person in commission of any offence or for any other illegal activity;
- (iv) **shall take steps to get the seized vehicle insured and shall produce a copy of insurance policy for verification before the releasing officer while receiving it in his zima, the concerned authority shall accommodate the petitioner to get the seized vehicle insured;**
- (v) shall furnish the aforesaid documents along with proper proof of his identity before the E.O. when he would get the vehicle released in

his favour from the custody of the concerned Excise Station pursuant to the order of this Court;

(vi) the surety shall give undertaking supported by an affidavit to indemnify the above amount solely/jointly in the event of violation of any of the terms/conditions of the bond by the petitioner.

(vii) the enquiring officer of this case is directed to allow the petitioner to take photographs and video of the seized vehicle bearing Regd. No. OD-27E-1710.

Petitioner is directed to submit digital photographs and video clip of not more than one minute duration of the vehicle from all angles. Digital camera or mobile phone camera can be used for the said purpose. The photo and video (with date and time stamp) be taken in presence of parties and Court official deputed by order to monitor relating to the taking of photo and video. The Court official for the purpose is to give a certificate after return to the Court. The image should be in JPG/JPEG/PNG and video should be in MP4/MOV/AVI etc. format. The parties (complainant and person taking vehicle) are also directed to submit their individual statements in writing that the whole process was undertaken in their presence.

Put up when such conditions are fulfilled for further orders to the investigating authority of this case to do the needful.

The Misc. Case stands disposed of accordingly.

Send an extract of this order to the E.O. of this case for information and necessary action.

Sd/- Shri P.K.Patra,
Sessions Judge, Boudh.

Dictated and corrected by me.

Sd/- Shri P.K.Patra,
Sessions Judge, Boudh.