

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 840 of 2026

Date of Decision: 23.09.2026

Pawna Kumari

....Petitioner

Versus

State of H.P.

....Respondent

Coram

Hon'ble Mr Justice Chirag Bhanu Singh, Judge.

Whether approved for reporting.

**For the petitioner : M/s. Vinod Chauhan & Nandita
Guleria, Advocates.**

**For the respondent : Mr. Prashant Sen, Deputy
Advocate General.**

Chirag Bhanu Singh, Judge(Oral)

The present petition has been preferred against the order dated 13.11.2024, passed by the learned Special Judge, Shimla, H.P., in Session Trial No. 46/2023, vide which the application filed by the petitioner under Section 497 of the "Bharatiya Nagarik Suraksha Sanhita, 2023", seeking the release of Vehicle Mercedes Benz Model GLC 200, bearing registration number HP 65 B 0006, along with keys and documents, came to be dismissed.

2. The long and short of the application filed by the petitioner was that her husband was facing trial in Case FIR No.120/2023 dated 24.09.2023, registered under Sections 420, 120-B of the Indian Penal Code & Section 5 of the Himachal

Pradesh Protection of Interests of Depositors (in Financial Establishments) Act, 1999 and Sections 21 & 23 of the Banning of Unregulated Deposit Schemes Act, 2019 (hereinafter referred to as the "Act"), registered in Police Station Palampur. The aforesaid vehicle, registered in the name of the petitioner's husband, had been impounded by the SIT along with Registration Certificate & other relevant documents. The said vehicle had been financed by ICICI Bank and an amount of Rs.25,00,000/- (Rs. Twenty Five Lacs Only) was still to be paid to the financier bank by the husband of the petitioner. The insurance of the aforesaid car has also expired. The husband of the petitioner was in judicial custody and she was facing undue hardship in the absence of the vehicle and, hence, the application.

3. The application before the learned Trial Court had been opposed on the premise that the aforesaid vehicle is registered in the name of accused Hem Raj, husband of the petitioner, who was heavily involved in the Crypto currency fraud. The vehicle, however, had not been frozen under Section 2 of Section 31 of the Act. Since the aforesaid vehicle had been seized/impounded by the SIT during the currency of the crime, it

is liable to be frozen under the provisions of Section 31 of the said Act.

4. After due deliberation, the application came to be dismissed by the learned Trial Court.

5. Feeling aggrieved by the orders passed by the learned Trial Court, the petitioner has preferred the present petition.

6. The learned counsel for the petitioner would thus contend that the orders passed by the learned Trial Court are not sustainable, as there was no specific bar for the release of the vehicle as per the provisions of the Act. The underlying principles of the Code of Criminal Procedure would thus apply in the facts and circumstances of the present case. It was further urged that the vehicles of the other co-accused already stand released by the learned Trial Court itself. Even otherwise, no fruitful purpose is going to be served by keeping the vehicle in the custody of the investigating agency.

7. *Per contra*, Mr. Prashant Sen, learned Deputy Advocate General, would contend that the vehicle in question had been acquired by the accused from the proceeds of the crime and the proceedings for its freezing/attaching of Divisional Attachment under the Act had also been processed. The mere fact

that the vehicle had been financed by the Bank does not establish that the funds utilised for the purchase of the same were from a lawful and independent source. It is further urged that the letter for freezing/attaching the alleged vehicle has been forwarded to the Competent Authority. The charge-sheet had already been presented before the learned Designated Court and, as such, no fault can be found with the impugned order.

8. Having considered the rival submissions of the parties, it specifically comes to the fore that, undisputedly, no provisional attachment of the vehicle has been made till date, though the steps are stated to have been afoot. No doubt, the vehicle has been taken into possession under the Act and there is no specific provision has been incorporated in the Act for the release of the vehicle, seized during investigation, but Section 31(2) of the Act itself provides that all the searches and seizures shall be made as per the provisions of the Cr.P.C. Therefore, the release of the case property, even in the cases registered under this Act, was to abide by the provisions of the Cr.P.C. The underlying principles of Cr.P.C., in any case otherwise would have been applicable, for seeking the release of the vehicles taken into possession during investigation, inquiry and trial.

9. Much was urged that the vehicle in question had apparently been purchased from the proceeds of crime. Seemingly, there is no such material on record at least at this stage. This aspect will have to be proved during the course of trial as to whether the vehicle in question has been purchased from the proceeds of crime or not?. This Court, in a similar situation, where the vehicle was seized under the provisions of the Act, had ordered its release in a case, titled as *Sahil Thakur Vs. State of H.P.* (Cr. MMO No. 1172 of 2025, decided on 22.06.2026).

10. Even otherwise, by now it is fairly stated that the vehicle should not be allowed to be kept in the Police Station, as they are likely to lose their value. The same should be released generally to the person from whom it was seized by taking appropriate bonds and guarantees, as well as security for the return of the vehicle, if required at any point of time. As far back as the year 2002, the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai Vs. State of Gujarat*, (2002) 10 SCC 283 has observed thus:-

“13. Learned senior counsel Mr Dholakia, appearing for the state of Gujarat, further submitted that at present in the police station premises, a number of vehicles are kept unattended and vehicles become junk day by day. It is his contention that appropriate directions should be given to the magistrates who are dealing with such questions to hand over such vehicles to their owner or to the person from whom the said vehicles are seized by taking an appropriate bond and a guarantee for the

return of the said vehicles if required by the court at any point in time.

14. However, the learned counsel appearing for the petitioners submitted that this question of handing over of vehicles to the person from whom it is seized or to its true owner is always a matter of litigation and a lot of arguments are advanced by the concerned persons.

15. In our view, whatever be the situation, it is of no use to keep seized vehicles at the police stations for a long period. It is for the magistrate to pass appropriate orders immediately by taking appropriate bonds and guarantees, as well as security for the return of the said vehicles if required at any point in time. This can be done pending a hearing of applications for the return of such vehicles.

16. In the case where the vehicle is not claimed by the accused, owner, or the insurance company or by a third person, then such vehicle may be ordered to be auctioned by the court. If the said vehicle is insured with the insurance company, then the insurance company be informed by the court to take possession of the vehicle which is not claimed by the owner or a third person. If the insurance company fails to take possession, the vehicles may be sold as per the direction of the court. The court would pass such an order within a period of six months from the date of production of the said vehicle before the court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken, and a detailed panchnama should be prepared.”

11. For all the reasons detailed hereinabove, the present petition is allowed and the Vehicle Mercedes Benz Model GLC 200, bearing registration number HP 65 B 0006, is ordered to be released to the petitioner's husband-accused, Hem Raj (through his wife, the present petitioner), along with the documents and keys, subject to her furnishing of GPA/SPA and furnishing of sapurdari bond in the sum of Rs.20,00,000/- (Rs. Twenty Lacs Only), undertaking therein to produce the car as and when

directed to do so and not to change the colour or identity of the car during the pendency of the proceedings before the learned Trial Court. The petitioner shall also not, in any way, charge or encumber the car during the trial, and shall not alienate or deal with the car in any manner so as to reduce its value until the disposal of the main petition or the proceedings before the learned Trial Court for confiscation, whichever is earlier, and in case of failure, to pay a sum of Rs.20,00,000/- (Rs. Twenty Lacs Only) to the State of H.P. The aforesaid sapurdari bond shall be furnished to the satisfaction of the learned Trial Court.

12. The police shall take photographs of the car and shall retain photocopies of the documents, which shall be countersigned by the petitioner, the accused and the Investigating Officer.

13. The present petition stands disposed off accordingly. The observations made hereinabove are regarding the disposal of this petition and will have no bearing ,whatsoever, on the merits of the case.

(Chirag Bhanu Singh)
Judge

23rd September, 2026
(Shamsh Tabrez)