

CRM-M-60277-2025

2025:PHHC:175136



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Ashok Kumar Yadav

....Petitioner

versus

Central Bureau of Investigation, Chandigarh

....Respondent

Date of reserve: December 04, 2025

Date of pronouncement: December 16, 2025

Judgment pronounced: Full

Date of Uploading: December 16, 2025

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ritik Mahindroo, Advocate and
Ms. Sukhman Jot Dhaliwal, Advocate for the petitioner.

Mr. Ravi Kamal Gupta, Advocate for the respondent-CBI.

SUMEET GOEL, J. (ORAL)

Present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking modification of the *impugned order* dated 08.07.2025 (Annexure P-2) passed by learned Special Judge, CBI, SAS Nagar (Mohali), in case FIR No.RC0052025A0010 dated 05.05.2025, registered under Section 7 of the Prevention of Corruption Act, 1988 (for short 'PC Act'), at Police Station CBI ACB Branch, Sector 30, Chandigarh, to the extent of reducing the

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sapurdari/superdari bond amount fixed as 10,00,000/- for vehicle in question and ₹1,00,000/- for mobile phone in question.

2. Learned counsel for the petitioner has argued that the petitioner is the lawful owner and possessor of the Hyundai Grand i10, Model 2016, bearing Registration No. UP-27-AF-0743, and the mobile phone, i.e., iPhone 12, IMEI No. 354038647150335, which were seized by the Investigating Agency at the time of the petitioner's arrest. Learned counsel has further argued that, vide order dated 20.05.2025 (Annexure P-1), the petitioner has been granted the concession of regular bail by the concerned Court in relation to the *FIR in question*. It is further submitted that, vide *impugned order* dated 08.07.2025 (Annexure P-2), while allowing the application of the petitioner seeking release of the aforesaid vehicle and mobile phone on *sapurdari/superdari*, the learned Special Judge, CBI, has imposed *sapurdari/superdari* bonds of ₹10,00,000/- in respect of the said vehicle and ₹1,00,000/- in respect of the said mobile phone, each with one surety of the like amount, in addition to imposing certain other conditions. Learned counsel has urged that the bond amount imposed by the learned special Judge is excessive and disproportionate to the actual value and condition of the vehicle (being a 2016 model with substantially depreciated market value) and the mobile phone (a four-year-old personal device with negligible residual value). The imposition of such a heavy monetary burden, it is argued, defeats the very purpose of granting *sapurdari/superdari*, particularly when the petitioner has limited financial means and is unable to furnish such onerous bond and surety amounts. It is further argued that it is well-settled that the conditions imposed for *sapurdari/superdari* must be reasonable and not oppressive, especially when their sole objective is to

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ensure production of the property as and when required by the Court.

Learned counsel submits that the petitioner is ready and willing to abide by all other conditions imposed by the learned trial Court vide the *impugned order*. On the strength of these submissions, learned counsel prays for allowing the present petition and seeks modification of the *impugned order* to the limited extent of reducing the bond and surety amounts.

3. Learned counsel for the respondent-CBI has filed reply dated 04.12.2025 on behalf the respondent-CBI, in the Court today, which is taken on record. Raising submissions in tandem with the said reply, learned counsel for the respondent-CBI has opposed the prayer of the petitioner by arguing that, on a complaint dated 30.04.2024 received by one Bhawandeep Singh Hehar and upon having verification report dated 30.04.2025 of the Inspector, CBI, ACB, Chandigarh, the petitioner was caught red handed while accepting bribe to the tune of ₹27,000/- from one Paramjit, Munshi of the complainant and was apprehended on 05.05.2025. Thereafter, he has been granted concession of regular bail by the concerned Court. Learned counsel has submitted that allegations levelled against the petitioner are serious in nature. Learned counsel for the respondent has further argued that in respect of present plea of the petitioner, the valuation of seized property is not the sole criterion for fixing bond amounts, but the predominant factor is to secure production of property and compliance with judicial directions. He has further argued that learned Special Judge has exercised discretion judiciously and, thus, the impugned order requires no interference by this Court. He has argued that inability of the accused to furnish bonds cannot be a ground to dilute judicial safeguards when the conditions imposed are reasonable and proportionate to the gravity of offence and are not

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oppressive. Learned counsel for the respondent has, thus, argued that act of the petitioner is not *bona fide*, but only an idea of avoiding compliance with lawful conditions imposed by the trial Court. With these submissions, dismissal of the present petition is entreated for.

4. I have heard learned counsel for the rival parties and have perused the paper-book.

5. The core issue that demands the considered rumination of this Court in the case in hand is the judicial scrutiny required to determine the reasonability and proportionality of the conditions imposed while releasing property which constitutes the subject matter of an offence, on *sapurdari/superdari* to its rightful owner or claimant.

6. The term '*Sapurdari*', more commonly known as '*Superdari*' refers to a judicial mechanism within the Indian criminal justice system that facilitates the interim release of property seized by investigating agency during an investigation or inquiry, delivering its temporary custody to the rightful owner or claimant pending the final adjudication of criminal proceedings. This procedure is of greater practical import as it aims at safeguarding the utilitarian value of the seized chattel (e.g., vehicle, machinery, documents, etc.) and prevents their deterioration while lying dormant in police custody (*Malkhana*) until the proceedings conclude. The legal framework governing this disposal and interim release of property, i.e. *sapurdari/superdari*, is primarily enshrined in Chapter XXXIV Cr.P.C., 1973, with the corresponding provisions in the newly enacted BNSS, 2023 contained in Chapter XXXV. The concept of *sapurdari/superdari* is essentially governed by two pivotal provisions contained in Cr.P.C., 1973, i.e. Section 451 & Section 457 (equivalents being Section 499 & Section

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505 of the BNSS, 2023, respectively). Section 451 Cr.P.C./Section 499

BNSS applies when the property is already produced before the concerned criminal court during any inquiry or trial, empowering the court to order for its proper interim custody. Conversely, Section 457 Cr.P.C./Section 505 BNSS addresses the situation where the property has been seized by the police but has not yet been produced before the court, granting the magistrate the authority to inquire into the right to possession and order its delivery. Section 451 Cr.P.C. and Section 457 Cr.P.C., read thus:

“451. Order for custody and disposal of property pending trial in certain cases. - When any property is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation. - For the purpose of this section, "property" includes –

(a) property of any kind or document which is produced before the Court or which is in its custody,

(b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

457. Procedure by police upon seizure of property. - (1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.”

These statutory provisions have been retained, *in verbatim*, in BNSS, 2023 *albeit* as Section 499 and Section 505, thereof, respectively.

6.1. A three-Judge Bench of the Hon’ble Supreme Court, while dealing with the aforementioned provisions, in ***Basava Kom Dyamogouda Patil v. State of Mysore and another***, 1977 AIR Supreme Court 1749, held as under:

“4. The object and scheme of the various provisions of the Code appear to be that where the property which has been the subject-matter of an offence is seized by the police it ought not to be retained in the custody of the Court or of the police for any time longer than what is absolutely necessary. As the seizure of the property by the police amounts to a clear entrustment of the property to a Government servant, the idea is that the property should be restored to the original owner after the necessity to retain it ceases. It is manifest that there may be two stages when the property may be returned to the owner. In the first place it may be returned during any inquiry or trial. This may particularly be necessary where the property concerned is subject to speedy or natural decay. There may be other compelling reasons also which may justify the disposal of the property to the owner or otherwise in the interest of justice. The High Court and the Sessions Judge proceeded on the footing that one of the essential requirements of the Code is that the articles concerned must be produced before the Court or should be in its custody. The object of the Code seems to be that any property which is in the control of the Court either directly or indirectly should be disposed of by the Court and a just and proper order should be passed by the Court regarding its disposal. In a criminal case, the police always acts under the direct control of the Court and has to take orders from it at every stage of an inquiry or trial. In this broad sense, therefore, the Court exercises an overall control on the actions of the police officers in every case where it has taken cognizance.”

6.2. Further guidance on the principles governing release and custody of case property can also be drawn from the judgment of the Hon’ble Supreme Court in *Sunderbhai Ambalal Desai Versus State of Gujarat 2003(1) RCR Criminal 380* in which it was held as under:

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

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21. However these powers are to be exercised by the concerned Magistrate. We hope and trust that the concerned Magistrate would take immediate action for seeing that powers under Section 451 Criminal Procedure Code, 1973 are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by the Registry of the concerned High Court in seeing that the rules framed by the High Court regard to such articles are implemented properly. ”

6.3. The underlying legislative *schema* is premised on the fundamental principle that property seized in connection with an alleged offence ought not to be retained in the custody of the court or the investigating agency for any period longer than absolute necessary. It is pertinent to note that prolonged and unnecessary retention invariably leads to the depreciation, decay or complete destruction of the property,

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constituting not only significant loss to the rightful owner but also resulting into an avoidable administrative burden on the State. This legislative imperative demands that criminal courts should pass appropriate and timely orders for the interim custody and swift disposal of seized articles once their immediate evidentiary integrity has been secured. This approach is also in consonance with the constitutional right to property as enshrined under Article 300A of the Constitution of India, which mandates that: *'No person shall be deprived of property save by authority of law.* The term *'authority of law'* must be interpreted not merely as a reference to a statutory provision, but as an embodiment of principles of justice, fairness and reasonableness. Where the facts and circumstances of a case, or the nature of property, do not necessitate its physical retention as *corpus delicti*, especially when photographs, videography, or detailed *panchnamas* can preserve its evidentiary value, the continued withholding of the property from rightful claimant ceases to be a proportionate investigative measure.

7. When a court/magistrate exercises its jurisdiction to release seized property on *Sapurdari/superdari*, it is undoubtedly vested with the power to impose such conditions and stipulations as are deemed necessary and expedient. The primary objective of these conditions is two fold: *firstly*, to ensure proper, safe and accountable custody of the property during the pendency of proceedings; and *secondly*, to guarantee its unhindered production before the court whenever the need arises for purpose of evidence, identification, or final disposal. However, the exercise of this judicial discretion is not absolute; it must be governed by the fundamental principles of proportionality and reasonableness. The conditions imposed must serve the intended purpose of temporary custodianship and not operate

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as an indirect punitive measure against the claimant or arbitrary hurdle to the release. Pertinently, requiring excessive bank guarantees, demanding sureties far exceeding the property's depreciated value, or imposing unreasonable restrictions on its use may render the order for release practically nugatory, amounting to taking away with one hand the benefit conferred by the other.

7.1. The determination of justness, reasonableness and proportionality of conditions imposed for the release of seized property on *sapurdari/superdari* is fundamentally dependent on a careful assessment of several contextual factors; which include: **the nature of property** (*fungible or non-fungible*); **the role of property in the commission of the crime** (*corpus delicti or ancillary involvement*); and its *prima facie* evidentiary value. This assessment becomes critical for determining the conditions to be imposed for release on *sapurdari/superdari*. Where the property itself represents the subject matter of crime (e.g., cash or jewellery recovered as stolen property), the conditions, particularly the bond amount, are required to be proportionate to its equivalent monetary value. However, where property like a vehicle is involved, and it played only an ancillary circumstantial or incidental role (e.g., used for transit, and not as the weapon of crime), the imposition of conditions must be sharply distinguished. In such cases, the primary purpose of the bond is solely to ensure the property's subsequent production before the Court if and when required, and not to serve as an indemnity for vehicle's full market value, as that may tantamount to imposing disproportionate condition(s) which is punitive in nature. The condition should instead be structured to secure attendance & production,

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often achieved through a more reasonable bond amount coupled with the claimant executing an undertaking not to alienate or damage the property.

8. Reverting to the facts and circumstances of the instant case, the learned Special Judge, while ordering for release of the vehicle (Hyundai Grand i10, Model 2016) and the mobile phone (iPhone 12), vide the *impugned order*, has imposed a bond amount of Rs. 10,00,000/- and Rs. 1,00,000/-, respectively. In the considered opinion of this Court, the excessive amount bond imposed is patently contrary to the settled principles governing the ambit and scope of *sapurdari/superdari*, as such a requirement is manifestly oppressive and disproportionate to both the intrinsic value and the nature of property in question, particularly considering the fact that, imposition of condition(s) was to ensure proper safe-keeping and subsequent production (if so directed). Moreover, the *impugned order* appears to have been passed in a mechanical and unreasoned manner, notably failing to record any satisfaction or justification underpinning the imposition of this exorbitant bond amount. This crucial omission renders the exercise of judicial discretion arbitrary, unreasonable, and legally unsustainable in the context of the present case. The requirement to record a reasoned satisfaction regarding the appropriateness and necessity of the conditions imposed is not a mere procedural formality, but a statutory obligation integral to the legislative provisions. Non-adherence to this fundamental mandate, resulting in the imposition of conditions that are oppressive or disproportionate, vitiates the exercise of discretion and consequently renders the *impugned order* liable to be set aside.

9. In the premise, the petition is allowed; the impugned order dated 08.07.2025 (Annexure P-2) is modified to the extent that the bond

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amount imposed by the learned Court below is hereby reduced to ₹1,00,000/-, in respect of vehicle in question, with one surety in the like amount, and ₹10,000/-, in respect of mobile phone in question, with one surety in the like amount. All other conditions shall remain unchanged.

10. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

December 16, 2025

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No