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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(CRL) 2249/2025 & CRL.M.A. 20964/2025**  
**ABHAY KUMAR RATHI** .....Petitioner

Through: Mr. Vishal Khanna, Mr. Love Sharma  
& Mr. Durgesh Kumar, Advocates.

versus

**THE STATE GOVT. OF NCT OF DELHI & ORS.** .....Respondents  
Through: Ms. Rupali Bandhopadhyaya, ASC with  
Mr. Abhijeet Kumar and Ms. Amisha  
Gupta, Advocates for State.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**  
**22.07.2025**

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1. The present writ petition under Articles 226 and 227 of the Constitution of India, 1950 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>1</sup> (earlier Section 482 of the Code of Criminal Procedure, 1973<sup>2</sup>) seeks directions to the Respondents to seize the E-rickshaw involved in the accident dated 3<sup>rd</sup> January, 2025 as well as to implicate its driver as an accused in the proceedings emanating from FIR No. 13/2025, registered at P.S. Preet Vihar.<sup>3</sup>
2. The Petitioner was implicated in the aforesaid FIR under Sections 281/106(1) of the Bharatiya Nyaya Sanhita, 2023<sup>4</sup> (formerly Sections 279/304A of the Indian Penal Code, 1860), which pertained to a motor

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<sup>1</sup> "BNSS"

<sup>2</sup> "Cr.P.C"

<sup>3</sup> "impugned FIR"

<sup>4</sup> "BNS"



vehicle accident that occurred on 3<sup>rd</sup> January, 2025.

3. In the said accident, the Victim was travelling in an E-Rickshaw along with her parents. Apparently, the driver of the said E-Rickshaw, while driving, took a sudden break, resulting in the Victim falling off the E-Rickshaw and coming under the Petitioner's car, who was coming from behind. The injuries suffered due to the accident eventually led to the Victim's death. Consequently, the impugned FIR was registered implicating the Petitioner as an accused. While the Petitioner was apprehended on the spot, the E-Rickshaw's driver fled the scene of the incident. Since then, the E-Rickshaw and its driver have not been traced. The chargesheet stands filed; however, the investigation is still ongoing.

4. In the above background, the Petitioner has filed the instant petition seeking the following prayers:

- “(i) Seize the E-Rickshaw / unauthorized Rickshaw / "Jugaadu" Rickshaw involved in the accident dated 03.01.2025;*
- (ii) Identify and include the name of the driver of the said E-Rickshaw unauthorized Rickshaw / "Jugaadu" Rickshaw as an accused in the charge sheet as well as in the DAR (Detailed Accident Report) petition; V.P.(CRL)-2249/2025*
- (iii) Record the statement of the said driver, who was the primary cause of the fatal accident resulting in the death of the deceased.*
- (iv) Direct the respondents to Re-Investigate the Matter regarding FIR NO.13/2025, PS PREET VIHAR U/S 281/106(1) BNS.”*

5. In the opinion of the Court, the nature of the prayers sought by the Petitioner fall within the ambit of Section 156(3) of the Cr.P.C (corresponding Section 175(3) of BNSS) which empowers any Magistrate under Section 190 of the Cr.P.C (corresponding Section 210 of BNSS), to order investigation into any cognizable case that falls within its jurisdiction. In this regard, it is also apposite to refer to the judgement of the Supreme



Court in *Sakiri Vasu v. State of U.P. & Ors.*<sup>5</sup> wherein the Court made the following observations *qua* Section 156 of the Cr.P.C:

“26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. **If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C.** Moreover he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C.”

6. In light of the foregoing facts and circumstances and having regard to the aforesaid legal principles, this Court refrains from issuing any directions in the present case. In case the Petitioner decides to take recourse to the aforenoted remedy under Section 156(3) of Cr.P.C, the concerned jurisdictional magistrate shall examine the given prayer and pass appropriate orders thereon, in accordance with law.

7. The petition is dismissed along with pending application.

**SANJEEV NARULA, J**

**JULY 22, 2025**

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<sup>5</sup> (2008) 2 SCC 409