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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010510482026**

\+ CRL.M.C. 7975/2026 & CRL.M.A. 33310/2026

PRAKASH SINGH .....Petitioner

Through: Mr. Rupesh Dutta and Ms. Snehlata Chaturvedi, Advocates.

versus

STATE GOVT OF NCT DELHI .....Respondent

Through: Mr. Tarang Srivastav, APP for State with Mr. Abhay Sahni, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 27.10.2026

1. The Petitioner invokes the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023,[1] challenging the order dated 22nd August, 2026, whereby the Judicial Magistrate First Class declined his application for release on superdari of a Realme GT7 mobile phone and a silver *kada*, seized during investigation of FIR No. 15/2025, registered at P.S. Cyber, New Delhi, under Sections 318(4) and 61(2) of the Bharatiya Nyaya Sanhita, 2023.

2. The FIR concerns alleged fraudulent withdrawals totalling ₹24.40 lakh from the bank accounts of the complainant, Surender Kumar, and his wife, between December 2024 and March 2025. According to the prosecution, the Petitioner, who worked with the complainant, misused his access to the latter's mobile phone to effect unauthorised UPI transactions.

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The amounts were routed through accounts of other accused persons, of which ₹23,72,500 allegedly reached the Petitioner's bank accounts. The prosecution further alleges that part of this money was used to purchase various articles, including the two articles presently in dispute. The chargesheet was filed on 2nd December, 2025, and the Petitioner was subsequently granted bail on 25th March, 2026.

3. Counsel for the Petitioner contends that neither article has been conclusively established to have been purchased from the alleged proceeds of crime. Reliance is placed on the purchase invoices, particularly the invoice dated 12th June, 2025, for the mobile phone, which stands in the name of the Petitioner's brother, and the invoice dated 17th January, 2025, for the silver *kada*. It is further submitted that the investigation has concluded and the evidentiary value of both articles can be preserved through photographs, forensic imaging and appropriate undertakings, without requiring their continued physical retention.

4. Sections 497 and 503 of the BNSS govern the custody and disposal of seized property, depending upon whether the property has been produced before the Court or its seizure reported to the Magistrate. In ***Sunderbhai Ambalal Desai v. State of Gujarat***[2] the Supreme Court emphasised that seized property should not be retained unnecessarily and that its evidentiary value can be preserved through appropriate safeguards. The Court must, however, consider who is *prima facie* entitled to interim possession, having regard to the nature of the property and the circumstances of its seizure and whether the competing claims can be satisfactorily resolved at that stage.

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[1] "BNSS"
[2] (2002) 10 SCC 283

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5. The material concerning the two articles is not equally strong. In the case of the *kada*, the alleged movement of funds and the earlier receipt-voucher adjustment provide a *prima facie* connection with the transactions under investigation. The connection concerning the handset is less direct, although the prosecution relies upon transfers to the Petitioner's brother, in whose name the purchase invoice was issued. The Petitioner's claim for release must be assessed against these circumstances. The safeguards offered by him would preserve the articles as evidence, but would not necessarily protect any competing claim concerning their acquisition from the allegedly diverted funds. Having considered the material presently available, this Court finds no sufficient ground to interfere with the Magistrate's refusal of interim custody. No finding concerning the actual source of the purchase money is being recorded.

6. Accordingly, the petition is dismissed. The Trial Court shall ensure that the articles remain in lawful custody and that the applicable requirements governing their custody and disposal under the BNSS are complied with. This order shall not be construed as authorising their indefinite retention or dispensing with any procedure required for attachment or confiscation. The observations made herein are confined to the present claim for interim custody and shall not influence the trial. The Petitioner shall remain at liberty to seek appropriate relief if there is a material change in circumstances.

SANJEEV NARULA, J

OCTOBER 27, 2026/*hc*

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