Reserved on :28.07.2026
Pronounced on :10.08.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

R

DATED THIS THE 10TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.9560 OF 2026

BETWEEN:

SRI G.ESHWARAIAH
S/O G.NARASIMHULU
AGED ABOUT 60 YEARS
RESIDING AT NO.11, 30TH WARD,
VINAYAKA NAGAR, BELLARY
BELLARY CANTONMENT
BELLARY KARNATAKA – 583 104.

... PETITIONER

(BY SMT.H.S.POORNIMA, ADVOCATE)

AND:

1 . CENTRAL BUREAU OF INVESTIGATION (CBI)
ANTI-CORRUPTION BRANCH,
NO.36, BELLARY ROAD,
GANGANAGAR,
BENGALURU – 560 032.

2 . K. MADHUSUDHANA
S/O K.SACHIDANANDAPA
AGED ABOUT 54 YEARS
RESIDING AT
SRI RAMANJANEYA NAGARA,

5TH CROSS, CONTONMENT,
BELLARI – 583 104.

3 . SRI A.ANANTHA NARAHARI
S/O SRI SRIPADA SHASTRY
AGED ABOUT 52 YEARS
RESIDING AT FIRST FLOOR,
BUILDING ADJACENT TO
SAI NILAYAM,
OPPOSITE SHARADA PEETHA SCHOOL,
SN PET BELLARI – 583 104.

... RESPONDENTS

(BY SRI P.PRASANNA KUMAR, SPL.PP FOR R-1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF B.N.S.S., PRAYING TO A) DIRECT THE RESPONDENT NO.1 TO RELEASE THE SEIZED TRAP MONEY OF RS. 80,000/- (RUPEES EIGHTY THOUSAND ONLY) WITH UP TO DATE INTEREST IN FAVOUR OF THE PETITIONER VIDE ANNEXURE F; B) ISSUE DIRECTIONS TO RESPONDENT NO.1 TO FRAME GENERAL GUIDELINES STIPULATING ELABORATE PROCEDURE FOR RELEASE OF SEIZED TRAP MONEY OR SET FORTH DIRECTIONS REGARDING THE SAME.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 28.07.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before the Court seeking a direction to release seized trap money of ₹80,000/- along with interest to the petitioner, de-facto complainant. The petitioner also seeks consequential directions or to frame guidelines in the cases, similar to the subject issue, for release of seized trap money from the hands of the complainants.

2. Facts, in brief, germane are as follows: -

The petitioner is the de-facto complainant, contractor by profession. The 2nd respondent/accused No.1 was, at the relevant point in time, holding the post of Superintendent, Central Goods and Service Tax, Preventive Wing, Ballari. A complaint comes to be registered on 05-06-2022 from the hands of the petitioner against accused No.1/2nd respondent alleging that he had demanded bribe to the tune of ₹1,00,000/- and then reduced it to ₹80,000/- on negotiation for closure of GST liability. The petitioner had incurred

GST liability of ₹14,00,000/-. It is the allegation that when the petitioner visited the office of the Assistant Commissioner of Commercial Taxes, GST Division, the tax liability along with delayed fee payable was at ₹14,46,000/-. The petitioner is said to have cleared all the outstanding GST liability. Notwithstanding the same, the 2nd respondent/accused No.1 had demanded ₹80,000/- for closure of petitioner's liability. The petitioner, not willing to pay the amount, registers a complaint before the Anti-Corruption Bureau alleging the said demand of bribe. Therefore, the crime comes to be registered in the FIR bearing No.RC0372022A0008 for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988. Subsequent to registration of the crime, a trap is laid under the leadership of trap-laying officer, whereby, the 2nd respondent/accused No.1 and another accused were caught red handed while receiving the bribe amount of ₹80,000/- from the petitioner. Copy of entrustment mahazar, post trap proceedings along with arrest-cum-inspection-cum-personal search memo are all appended to the petition to demonstrate that ₹80,000/- involved in the trap money was a part of recovery mahazar. The trap money was seized and placed before the concerned Court and the matter is now being tried as Special C.C.No.2749 of 2022.

3. The averment in the petition is that, the petitioner arranged pre-trap money, which was seized was his hard-earned money. Therefore, he is seeking release of money at his hands during the subsistence of trial. Since no refund was entertained, the petitioner is before the Court seeking refund of trap money.

4. Heard the learned counsel Smt. H.S. Poornima, appearing for the petitioner and the learned Special Public Prosecutor Sri. P. Prasanna Kumar, appearing for respondent No.1.

SUBMISSIONS:

PETITIONER:

5. The learned counsel Smt. H.S. Poornima, appearing for the petitioner would vehemently contend that in all cases of trap, the trap money is stacked with the proceedings before the trial Court. The trial Court may some times take 5 or 7 years for consideration and the trap money is released only after conclusion of trial. In the

case at hand, it may be ₹80,000/-, the learned counsel submits that in some cases it is ₹10/- lakhs or ₹15/- lakhs. This trap money will be arranged by the complainants on the directions of the prosecuting agency. The said money sometimes arranged by taking loan from others or out of hard earned money. Therefore, the money that is used for trap legally belongs to the complainants. It should be released, the moment the trap is over or before commencement of the proceedings. The complainant whose money is used for trap proceedings against an alleged corrupt officer will be placed worst of than the alleged corrupt officer. She would contend that there is no law in this regard by this Court. Therefore, some guidelines are necessary to be framed to save complainants from jeopardy.

RESPONDENT NO.1:

6. The learned Special Public Prosecutor Sri P.Prasanna Kumar appearing for the CBI would admit the fact that the trap money belongs to the petitioner. But, there is no procedure for return of the trap money to the complainant, laid down in the CBI manual before the closure of trial. It is only on conclusion of trial,

the trap money is returned to the complainant. Therefore, the prosecuting agencies are following the same procedure and would leave the decision at the hands of the Court.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts are neither in dispute nor shrouded in factual controversy. The controversy that survives for consideration lies within a narrow, though jurisprudentially significant, compass: **what should be the legal status and eventual destination of trap money, once the object of the trap has been accomplished?**

<u>CONSIDERATION:</u>

9. It is an admitted position that the sum of **₹80,000/-** employed in the trap belonged to the petitioner. Equally undisputed is the fact that the said amount was utilised by the prosecuting agency for laying a trap against accused Nos.1 and 2, who are alleged to have been caught **red-handed** while accepting

the tainted currency notes. The very currency notes, duly treated with phenolphthalein powder, formed an integral part of the entrustment mahazar, the recovery mahazar and the post-trap proceedings. They thereafter came to be seized, assigned Property Form numbers and produced before the jurisdictional Court as material objects in the criminal prosecution.

10. The ownership of the trap money, therefore, admits of no ambiguity. It is not the case that the prosecuting agency advances or finances the trap amount and entrusts it to the complainant for effectuating the trap. On the contrary, it is the complainant who parts with his own money to facilitate the detection of an alleged act of corruption. The prosecuting agency merely employs that money as an instrumentality to expose criminality. Ownership, therefore, never migrates from the complainant to the State merely because the currency notes momentarily assume the character of material evidence.

11. In the considered view of this Court, the complainant is, beyond any pale of doubt, the rightful owner and lawful custodian of the trap money. Yet, the recognition of ownership, if divorced

from possession, is but a barren declaration. A person may possess title in law, but if he is denied enjoyment of the property for years together without any legal necessity, such title becomes illusory and reduced to a mere abstraction. The law cannot content itself with acknowledging ownership while simultaneously permitting prolonged deprivation of its enjoyment.

12. Undoubtedly, every article seized during investigation, whether pursuant to a search or as part of a trap operation, is required to be preserved in accordance with law, for criminal proceedings cannot be permitted to suffer on account of loss or destruction of material evidence. Equally well settled is the principle that seized property need not invariably remain in judicial custody until the culmination of trial. The Criminal Procedure Code, 1973 ('Cr.P.C.' for short), and now the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for short), recognise situations where seized property may legitimately be restored to its lawful owner even during the pendency of the proceedings. Such restoration may occur upon conclusion of investigation, during the course of trial where circumstances warrant, upon conclusion of trial, or even at

an earlier stage if compelling considerations of justice or protection of the owner's proprietary rights so demand.

13. Trap cases, however, present a peculiar and somewhat unique dimension. Unlike ordinary movable property, the seized articles are currency notes whose denomination, serial numbers and identifying particulars are meticulously incorporated into the recovery mahazar. Their physical identity often assumes evidentiary significance during the course of trial. Consequently, directing release of the very same currency notes to the complainant may, in a given case, impede the smooth conduct of evidence or unnecessarily complicate the prosecution.

14. Yet, the evidentiary importance of the currency notes cannot eclipse the undeniable proprietary right of the complainant. The law is not expected to choose one legitimate interest by sacrificing another equally legitimate one. It must endeavour to harmonise both. The scales of justice must remain evenly balanced—on one side lies the necessity of preserving unimpeachable evidence to secure a fair trial; on the other, rests the equally compelling obligation to ensure that a citizen, who has

voluntarily assisted the State in unearthing corruption, is not compelled to bear the financial burden of that public duty.

15. **Indeed, every successful trap is founded upon the courage of an honest citizen who chooses the path of legality over silent submission. Such a citizen should emerge from the process with the satisfaction of having assisted the administration of criminal justice, not with the additional burden of financial impoverishment occasioned by the prolonged retention of his own money in judicial custody. To compel the complainant to wait for years together for restoration of his property, merely because he assisted the State, would amount to converting his public spiritedness into an unintended penalty.**

16. **The dilemma, therefore, is not whether the complainant deserves restoration of the trap money—the answer to that is unmistakably in the affirmative. The real question is how such restoration ought to be achieved without impairing the sanctity of the criminal trial.**

17. The solution, in the considered opinion of this Court, lies in maintaining the evidentiary integrity of the trap proceedings while simultaneously protecting the proprietary rights of the complainant. The currency notes actually utilised during the trap may necessarily remain in judicial custody as material objects until their evidentiary purpose is exhausted. **However, there exists no legal impediment for the prosecuting agency, through the instrumentality of the State, to restore to the complainant an equivalent amount from the State exchequer immediately after the trap proceedings attain finality for investigative purposes, leaving the original currency notes to continue as material exhibits before the Court.**

18. **Such a course harmoniously sub-serves both competing interests. It preserves the sanctity of the evidence indispensable for the criminal trial, while simultaneously ensuring that the complainant is not rendered financially vulnerable merely because he chose to become an ally of the law in exposing corruption. More importantly, such an approach would foster public**

confidence in anti-corruption mechanisms, encourage honest citizens to come forward with complaints against corrupt public servants, and reinforce the larger constitutional objective of eradicating corruption from public administration. The fight against corruption cannot be sustained merely by statutory provisions; it must equally be nourished by assuring every complainant that the legal system shall not reward his courage with financial hardship.

19. In this regard, it would be opt to notice a judgment of the Apex Court rendered on the issue. The Apex Court in the case of **SUNDERBHAI AMBALAL DESAI v. STATE OF GUJARAT[1],** has held as follows:

"…. …. ….

> **"4.** Learned counsel further referred to the relevant Sections 451 and 457 of the Code of Criminal Procedure, which 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*

[1] **(2002) 10 SCC 283**

evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation.—For the purposes 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 it and shall, in such case, issue a proclamation specifying 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."

5. Section 451 clearly empowers the court to pass appropriate orders with regard to such property, such as:

(*1*) for the proper custody pending conclusion of the inquiry or trial;

(*2*) **to order it to be sold or otherwise disposed of, after recording such evidence as it thinks necessary;**

(*3*) **if the property is subject to speedy and natural decay, to dispose of the same.**

6. It is submitted that despite wide powers, proper orders are not passed by the courts. It is also pointed out that in the State of Gujarat there is Gujarat Police Manual for disposal and custody of such articles. As per the manual also, various circulars are issued for maintenance of proper registers for keeping the mudammal articles in safe custody.

7. In our view, the powers under Section 451 CrPC 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 panchnama before handing over possession of the 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.**

8. The question of proper custody of the seized article is raised in a number of matters. In *Basavva Kom Dyamangouda Patil* v. *State of Mysore* [(1977) 4 SCC 358 : 1977 SCC (Cri) 598] this Court dealt with a case where the seized articles were not available for being returned to the complainant. In that case, the recovered ornaments were kept in a trunk in the police station and later it was found missing, the question was with regard to payment of those articles. In that context, the Court observed as under: (SCC p. 361, para 4)

"*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."

(emphasis supplied)

9. The Court further observed that where the property is stolen, lost or destroyed and there is no prima facie defence made out that the State or its officers had taken due care and caution to protect the property, the Magistrate may, in an appropriate case, where the ends of justice so require, order payment of the value of the property.

10. To avoid such a situation, in our view, powers under Section 451 CrPC should be exercised promptly and at the earliest.

Valuable articles and currency notes

11. With regard to valuable articles, such as, golden or silver ornaments or articles studded with precious stones, it is submitted that it is of no use to keep such articles in police custody for years till the trial is over. In our view, this submission requires to be accepted. In such cases, the Magistrate should pass appropriate orders as contemplated under Section 451 CrPC at the earliest.

12. For this purpose, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after:

(*1*) preparing detailed proper panchnama of such articles;
(*2*) taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and
(*3*) after taking proper security.

13. For this purpose, the court may follow the procedure of recording such evidence, as it thinks necessary, as provided under Section 451 CrPC. The bond and security should be taken so as to prevent the evidence being lost, altered or destroyed. The court should see that photographs of such articles are attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over. Still however, it would be the function of the court under Section 451 CrPC to impose any other appropriate condition.

14. In case, where such articles are not handed over either to the complainant or to the person from whom such articles are seized or to its claimant, then the court may direct that such articles be kept in bank lockers. Similarly, if articles are required to be kept in police custody, it would be open to the SHO after preparing proper panchnama to keep such articles in a

bank locker. In any case, such articles should be produced before the Magistrate within a week of their seizure. If required, the court may direct that such articles be handed back to the investigating officer for further investigation and identification. However, in no set of circumstances, the investigating officer should keep such articles in custody for a longer period for the purposes of investigation and identification. For currency notes, similar procedure can be followed.

Vehicles

15. 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 owners or to the person from whom the said vehicles are seized by taking appropriate bond and guarantee for the return of the said vehicles if required by the court at any point of time.

16. However, the learned counsel appearing for the petitioners submitted that this question of handing over the vehicle 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 persons concerned.

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.

18. In 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 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 detailed panchnama should be prepared.

19. For articles such as seized liquor also, prompt action should be taken in disposing of it after preparing necessary panchnama. If sample is required to be taken, sample may be kept properly after sending it to the Chemical Analyser, if required. But in no case, large quantity of liquor should be stored at the police station. No purpose is served by such storing.

20. Similarly for the narcotic drugs also, for its identification, procedure under Section 451 CrPC should be followed of recording evidence and disposal. Its identity could be on the basis of evidence recorded by the Magistrate. Samples also should be sent immediately to the Chemical Analyser so that subsequently, a contention may not be raised that the article which was seized was not the same.

21. However, these powers are to be exercised by the Magistrate concerned. We hope and trust that the Magistrate concerned would take immediate action for seeing that powers under Section 451 CrPC 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 High Court concerned in seeing that the rules framed by the High Court with regard to such articles are implemented properly."

The Apex Court, in the afore-extracted judgment, has authoritatively delineated the principles governing the custody, preservation and eventual release of articles seized during the course of investigation pursuant to search and seizure proceedings. The judgment is not merely an exposition of the powers exercisable under Sections 451 and 457 of the Cr.P.C.; it is a pragmatic charter intended to ensure that seized property does not languish in judicial custody longer than the necessities of justice demand. **The guidelines so enunciated seek to strike a delicate balance between preservation of evidence on the one hand and protection of the proprietary rights of the lawful owner on the other.**

20. If the principles expounded by the Apex Court while considering applications under Sections 451 and 457 of the Cr.P.C. are transposed, with necessary adaptation, to the issue at hand, the controversy would admit of little difficulty. Though the present case concerns trap money employed in the proceedings under the Prevention of Corruption Act, 1988 the underlying jurisprudential principle remains unchanged. **The law does not countenance indefinite retention of property merely because it has become part of a criminal prosecution. What is required is**

preservation of its evidentiary value, not prolonged deprivation of the lawful owner's rights.

21. The High Court of Orissa in the case of **LAKSHMAN SRINIVASAN v. REPUBLIC OF INDIA**[2], in a similar circumstance, has held as follows:

"…. …. ….

> **6.** Learned counsel for the petitioner further submits that the present petitioner is the rightful custodian of the money seized and for that the money should be accordingly released and given back to the petitioner. While contending this, the learned counsel places reliance on Section 451 read with Section 457 CrPC, 1973. For ready reference, the said provisions are reproduced as under:
>
> > "**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 purposes of this section, 'property' includes—
> >
> > (*a*) property of any kind or document which is produced before the court or which is in its custody; and
> > (*b*) any property regarding which an offence appears to have been committed or which appears to

[2] **2025 SCC OnLine Ori 1346**

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 it and shall, in such case, issue a proclamation specifying 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."

Further, he has relied upon the following passage from the judgment of the Supreme Court in *Sunderbhai Ambalal Desai* v. *State of Gujarat*[1]: (SCC pp. 287-288, paras 5, 7 and 8)

"*5.* Section 451 clearly empowers the court to pass appropriate orders with regard to such property, such as:

(1) for the proper custody pending conclusion of the inquiry or trial;

(2) to order it to be sold or otherwise disposed of, after recording such evidence as it thinks necessary; and

(3) if the property is subject to speedy and natural decay, to dispose of the same.

***

7. In our view, the powers under Section 451 CrPC 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 panchnama before handing over possession of the 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.

8. The question of proper custody of the seized article is raised in a number of matters. In *Basavva Kom Dyamangouda Patil* v. *State of Mysore*[2] this Court dealt with a case where the seized articles were not available for being returned to the complainant. In that case, the recovered ornaments were kept in a trunk in the police station and later it was found missing, the question was with regard to payment of those articles. In that context, the court observed as under: (SCC p. 361, para 4)

> '*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."

Learned counsel for the petitioner in addition to this also placed reliance on the judgment of the High Court of Delhi in *Manjit Singh* v. *State (NCT of Delhi)*[3]: (SCC OnLine Del paras 65-67)

"***65.*** **The currency notes seized by the police may be released to the person who, in the opinion of the court, is lawfully entitled to claim after preparing detailed panchnama of the currency notes with their numbers or denomination; taking photographs of the currency notes; and taking a security bond.**

66. **The photographs of such currency notes should be attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over and memo of the proceedings be prepared which must be signed by the parties and witnesses.**

67. **The production of the currency notes during the course of the trial should not**

be insisted upon and the releasee should be permitted to use the currency."

Learned counsel relying on the aforesaid judgments contended that the petitioner is entitled to the release of the seized money as its rightful custodian. He submitted that the Supreme Court in *Sunderbhai Ambalal Desai* v. *State of Gujarat*[1] has emphasised that property seized by the police should not be retained unnecessarily and must be released to the rightful owner at the earliest. He has further contended that under Sections 451 and 457 CrPC, 1973, the court has the power to order the return of seized property to its lawful owner, subject to appropriate safeguards.

Additionally, the learned counsel draws the court's attention to the judgment of the High Court of Delhi in *Manjit Singh* v. *State (NCT of Delhi)*[3] which lays down specific guidelines regarding the release of seized currency notes in the course of investigation and while pending trial. He argued that as per the principles enunciated in the said case, the seized amount may be returned to the petitioner after proper documentation, including a detailed panchnama, photographing of the currency notes, and obtaining a security bond.

7. However, on the contrary, Mr Nayak, learned Special PP-Cum-Retainer Counsel (CBI) for the opposite party vehemently opposed the contentions of the petitioner's counsel and submitted that the aforesaid judgments would only be applicable in the case when the person is lawfully entitled to such currency notes and relied on the order of the trial court which state that the seized amount was properly not accounted for by the accused-petitioner and the source of seized cash was not clear as to whether the same was legal or illegal.

... ...

9. I have carefully scrutinised the materials placed before this Court and the judgment cited by both the learned counsel appearing for the parties. The larger picture emerging from the facts of the present case is that petitioner and others targeted the innocent citizens, exploited them and amassed huge wealth, sometimes resulting in cash currency hounding. When application for release of said cash/currency of economic offences of

such magnitude, the courts become circumspective to release the amount. However, the release of money ensures that the seized currency remains in circulation, thereby aiding the national economy. If the money remains stagnant, it serves no practical purpose and fails to contribute to economic activity. Currency is meant to be in circulation to facilitate trade, commerce, and overall economic growth. Keeping large sums of money idle in custody neither benefits the State nor the affected individuals. Instead, it restricts liquidity in the financial system and prevents the owner from utilising the funds for legitimate purposes.

10. In recent past when a question relating to the release of the currency note came before this Court in *Santosh Kumar Tripathy* v. *State of Odisha*[5], this Court in the disposal order held thus:

> "*4.* Regard being had to the submissions made by the learned counsel and the facts of the present case, I am inclined to allow the petition. The trial court is directed to release the seized cash deposited by the IO in the court in favour of the petitioner by preserving colour photographs of the currency notes. It is open for the trial court to impose any other condition as deemed fit and proper."

Similar modus can be applied in the present case.

Furthermore, in *Santosh Kumar Tripathy* v. *State of Odisha*[5], this Court recognised the importance of preserving the evidentiary value of seized cash through colour photographs while ensuring that the currency itself remains available for economic use. This principle aligns with broader economic considerations, where unnecessary stagnation of monetary resources can hinder financial fluidity. Releasing the seized cash with proper safeguards, such as the preparation of panchnamas and photographic documentation, balances both the interests of justice and economic utility.

Thus, allowing the release of the seized currency under appropriate conditions would not only comply with

legal precedents but also serve the larger public interest by ensuring that money continues to contribute to the economy rather than remaining unutilised in the custody.

11. In light of the above discussion and considering the judicial precedents, this Court is inclined to direct the release of the seized amount of Rs 15.00 lakhs (fifteen lakhs) to the accused petitioner, subject to certain conditions that ensure both the integrity of the investigation and the smooth conclusion of trial.

It is well established that money, as a movable property, should not remain stagnant in judicial custody when it can be preserved through alternative means without prejudicing the prosecution's case. In the lights of the judgments cited, the release of seized cash should be considered while ensuring that its evidentiary value is duly preserved, which can be used for trial.

Accordingly, before releasing the amount, the following broad safeguards shall be ensured:

(I) Preparation of a detailed panchnama — A formal record (panchnama) of the seized cash shall be prepared under the supervision of the trial court, documenting essential details such as the total amount, denominations, serial numbers (where feasible), and other relevant particulars.

(II) Preservation of colour photographs — High-resolution colour photographs of the seized currency shall be taken to ensure that its physical attributes are recorded for evidentiary purposes. These photographs shall be signed by the investigating officer, the accused petitioner, and two independent witnesses before being placed on record.

(III) Security for the released amount — To balance the interests of justice and financial security, the petitioner shall be required to furnish a bank guarantee equivalent to 50 per cent of the seized amount (i.e. Rs 7.50 lakhs) which shall remain valid

until the conclusion of the trial. Additionally, the petitioner shall also secure the remaining 50% (i.e. Rs 7.50 lakhs) through the indemnification of any immovable property or other financial security, to the satisfaction of the trial court, as an assurance against potential liabilities arising from the case.

(IV) Undertaking of compliance — The petitioner shall submit an affidavit affirming that the released amount shall remain available for restitution if required by the court at a later stage, and that any misuse or misappropriation of the released amount shall lead to immediate legal consequences.

With these conditions in place, the court finds no justifiable reason to retain the seized cash in judicial custody when its circulation could contribute to economic activity without compromising the investigation or trial proceedings.

Similar course of action may be taken in such cases arising out of the jurisdiction of this Court, keeping in mind the demand and need (which may vary) in different cases.

12. In addition to this, it is also desirable that not only regarding cash but also other materials which are seized such appropriate action must be taken by the authorities and courts below to do the needful and dispose of the items unless necessary to be in custody, which will additionally save the resources of the State and will also aid in the well-being of the rightful owner.

By taking into consideration, the law laid down by the Supreme Court in *Sunderbhai Ambalal Desai case*[1] judgment and various other High Courts, this Court feels it expedient to cull out following principles regarding disposal of the seized article in form of broader guidelines, which may not be exhaustive but to some extent inclusive:

1. General principles

***1.1.* Courts and investigating authorities must ensure that seized property is not retained**

indefinitely without valid legal justification. It is imperative to take steps for its prompt release or disposal unless required for an ongoing investigation or trial.

1.2. **The disposal process should adhere to the provisions of Sections 451, 452, and 457 of the Criminal Procedure Code (CrPC) and be guided by established judicial precedents.**

1.3. **The primary objective should be to prevent unnecessary storage, avoid wastage of resources, and ensure that valuable assets retain their utility keeping in mind the investigation and trial process is not compromised.**

2. Handling of seized cash

2.1. **In cases involving seized currency, courts may consider its release upon fulfilment of the following conditions:**

- **High-resolution colour photographs should be taken for permanent record-keeping.**

- **A detailed panchnama should be prepared and signed by the investigating officer, the claimant, and other relevant parties and/or witnesses.**

- **Appropriate conditions or security bonds should be imposed to ensure compliance.**

2.2. **If immediate release is not feasible, the cash must be deposited in a nationalised bank to prevent stagnation and contribute to the economy. Keeping cash in judicial or police custody for extended periods serves no practical purpose.**

3. Releasing of bank deposits/fixed deposits

3.1. **Bank deposits and/or fixed deposits may be released against similar or varied amount of**

property securities or bank guarantee made by the accused petitioner, as per the direction of the competent authorities or court.

3.2. **Such bank deposits/fixed deposits, shall not be released, in case when attachment and/or confiscation proceeding regarding the same assets have already been initiated. In such cases the release shall be decided by the competent court.**

4. Disposal of seized vehicles

4. Vehicles that remain impounded in police stations deteriorate in value and become unfit for use. To prevent such depreciation, courts and authorities must ensure their early release by:

- Verifying ownership and allowing release to the rightful owner upon submission of a security bond and valid proof of ownership.

- Ensuring that any legal dispute concerning ownership are resolved efficiently through judicial orders.

- If a vehicle cannot be immediately returned, it should be stored in a secure facility instead of being left exposed to damage.

- If the rightful owner is untraceable or the vehicle is linked to a serious crime, the court may order its auction or disposal through appropriate channels after preserving appropriate records and photographs for the process of trial (in case linked to a crime) subjecting the provisions of law.

5. Management of precious articles (gold, jewellery, and valuables)

5.1. Precious items such as gold, silver, and gemstones should not be kept in police custody for extended periods. Instead, they should be stored in proper lockers or bank lockers under court supervision.

5.2. If ownership is clear, the Magistrate may order their release after verification, ensuring that:

• Photographic or videographic evidence is recorded for reference.

• The claimant provides a bond ensuring return if required for trial.

5.3. If ownership is contested or the valuables are crucial evidence, they should be preserved under strict security protocols until the matter is resolved.

6. Disposal of seized liquor and narcotic substances

6.1. Alcoholic beverages and narcotic drugs must not be stockpiled unnecessarily. Authorities must ensure that:

• Necessary samples are collected and properly sealed for forensic analysis and trial purposes.

• The remaining quantity is destroyed promptly after obtaining court approval in accordance with law.

6.2. Large consignments of seized liquor should not be stored indefinitely in police stations, as this poses logistical and security challenges. Once samples are preserved for legal proceedings, the rest should be disposed of under proper supervision and in accordance with law.

6.3. In narcotics cases, forensic examination of samples should be conducted without delay, and the remaining substances should be disposed of as per the provisions of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985.

7. Perishable goods and agricultural products

7.1. Perishable goods such as food and agricultural produce must be handled on a priority basis to prevent spoilage. Courts may consider:

• Immediate release to the rightful owner, if legally permissible.

• Auctioning or distribution through government agencies, in cases where the goods have no direct claimant.

7.2. If required for legal proceedings, only small representative samples should be retained, and the rest should be disposed of efficiently.

8. Firearms, explosives, and dangerous weapons

8.1. Firearms, ammunition, and explosives should be stored in designated armouries instead of police stations to ensure safety and security.

8.2. If the weapons are lawfully owned, they may be returned to the rightful owner after proper verification. However, if the arms are linked to criminal activities or pose a public threat, courts may order destruction or forfeiture to the State.

8.3. Any delay in processing these items may pose safety hazards; therefore, courts should prioritize their disposal.

9. Electronic devices and digital evidence

9.1. Seized electronic devices, including mobile phones, laptops, hard drives, other storage devices, surveillance footage and other such digital evidences, must be handled with care to prevent tampering. Authorities should:

• Create forensic copies or digital images of the data using proper digital forensic tools so that the integrity of the digital evidences is not lost, before returning the device.

• A proper chain of custody must be maintained on record to ensure authenticity.

9.2. If the device is not crucial to the case, it should be released to the owner without unnecessary delay. However, if it at all is a key piece of evidence and authenticity of the digital evidence can be challenged at a later stage then strict storage protocols must be followed for storing the evidence.

10. Disposal of miscellaneous seized property

10.1. Items that do not fall under specific categories should be assessed based on their legal relevance and economic value.

10.2. If an item is no longer required for investigation or trial, it should be:

• Returned to its rightful owner, if identifiable.

• Auctioned or disposed of, if no claimant comes forward within a reasonable time.

10.3. Courts should introduce a time-bound review mechanism to prevent unnecessary accumulation of seized goods.

11. Role of the courts and investigating authorities

11.1. Magistrates should take proactive measures to ensure that seized property is not retained for an extended period without justification. Court directives for the return or disposal of property should be issued without undue delay.

11.2. Investigating officers must regularly report on seized property and seek judicial orders for its appropriate handling.

11.3. A system of periodic review and compliance checks should be established to prevent excessive backlog and mismanagement of seized assets.

By implementing aforementioned structured guidelines, courts and law enforcement agencies can ensure that seized property is managed in a manner that is efficient, legally sound, and beneficial to both the justice system and society at large.

The Registry of this Court is advised to transmit a copy of this judgment to all District Courts, Special Courts, and other subordinate courts. Additionally, copies may also be forwarded to the Director General of Police, Odisha Police Headquarters, and all other law enforcement agencies, including the State Vigilance Directorate, Excise Department, Forest Department, and other investigating agencies, for the purpose of guidance.

13. With the above observations and directions the CRLREV is allowed, subject to compliance with the conditions as stipulated above."

(Emphasis supplied at each instance)

The Apex Court and the High Court of Orissa, in the afore-extracted judgments, have authoritatively delineated the principles governing the custody, preservation and eventual release of articles seized during the course of investigation pursuant to search and seizure proceedings.

22. In the wake of the aforesaid analysis and the principles enunciated hereinabove, the petitioner becomes entitled to a limited, yet efficacious, relief. Liberty is reserved to the petitioner to approach the learned Special Court in **Special C.C. No.2749 of**

2022 by preferring an appropriate application under **Sections 497 and 503 of the BNSS**, seeking release of the equivalent of the trap money arranged by him. Upon such an application being presented, the learned Special Court shall consider and dispose of the same in the light of the observations rendered in the course of this order, **bearing in mind the salutary principle that while the evidentiary sanctity of the original trap currency must remain inviolate, the proprietary rights of the complainant ought not to be rendered illusory by compelling him to await the culmination of a protracted criminal trial**.

23. The learned Special Court shall, after affording an opportunity of hearing to the prosecution, pass appropriate orders in accordance with law, as expeditiously as possible and, in any event, **within a period of four weeks** from the date of the presentation of such application.

24. The criminal petition is accordingly **disposed of,** in the aforesaid terms.

Ordered accordingly.

Sd/-
(M.NAGAPRASANNA)
JUDGE

NVJ
CT:MJ