



*Chhattisgarh State Judicial Academy  
Bilaspur*



**Divisional Judicial Seminar of all Judicial  
Officers posted in Bilaspur Division**

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**Supurdnama under Cr.P.C./B.N.S.S. and under  
Special Acts**

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**A presentation submitted to**

***Chhattisgarh State Judicial Academy, Bilaspur***

*by*

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## **Introduction**

The Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter mentioned as BNSS) & Code of Criminal Procedure, 1973 (hereinafter mentioned as CRPC) has provisions for disposal of property in Chapter XXXVI and XXXV respectively. The court can dispose of property through destruction, confiscation, or delivery to a rightful claimant.

Now I would like to throw some light on what we understand from *supurdnama*? *Supurdnama* refers to the legal process of entrusting seized property to a person during the pendency of a trial or during investigation. The object and scheme of the various provisions contained in the CrPC appear to be that where the property which has been the subject-matter of an offence is seized by the police, it ought not 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 property by the police amounts to a clear entrustment of the property to government servant, the idea is that the property should be restored to the original owner after the necessity to return it ceases. Sub section (2) & (3) of section 497 B.N.S.S. provides that whenever the seized property is presented before the court then the court shall within 14 days, prepare the description of such property and cause it to be photographed and ensure such property is kept in safe custody. Further sub section (5) section 497 B.N.S.S. provides that after preparation of description of property the court shall order disposal/ destruction/ confiscation or delivery of property.

## **Sundarbhai Ambalal Desai vs State of Gujrat 2002 (10) SCC 283**

Cautioning the Magistrates for taking prompt action u/s 451 CrPC for the release/disposal of case property seized by police, the Hon'ble Supreme Court has issued its directions in case of **Sunder Bhai Ambalal Desai Vs. State of Gujarat, (2002) 10 SCC 283.**

The Court emphasized that valuable property, such as gold or money, should not be kept for extended periods without purpose. It instructed that the Magistrate pass orders regarding such property after recording evidence, with a panchnama serving as evidence in place of the actual property. For stolen property, a panchnama, photographs, and a bond should be prepared before returning it.

In cases of seized vehicles, only a seizure report is required, and the vehicle need not be produced unless ordered by the Court. Seized vehicles should not be stored at police stations for long and should be returned with a bond or security deposit. If the owner is unknown, the vehicle can be auctioned, and insurance companies should be informed. If they don't take possession, the Court may order disposal within six months, with a panchnama and photographs taken before return.

The Court also addressed the handling of liquor and narcotics, instructing that samples should be analyzed and the remaining quantity disposed of promptly, with a panchnama prepared before disposal. In cases of lost, damaged, or destroyed property, the Magistrate may order compensation if proper care was not taken. The Magistrate should ensure compliance with Section 451, with a retention period of up to one month.

## **Supurdnama of Different Types of Seized Properties**

### **Supurdnama of Vehicles**

Where a truck was seized for non- production of papers, it has been held by the Hon'ble Supreme Court in the case of **Ramesh Chand Jain Vs. State of Haryana, (2007) 15 SCC 126** that the truck should be released in favour of its registered owner. In the event of dispute of title, vehicle should be released temporarily u/s 451 CrPC in favour of its ostensible name holder in the registration

certificate till the stage when the court passes the order regarding disposal of property on conclusion of the trial.

Where car suspected to be stolen, seized by police was entrusted to its owner by the police on execution of bond in favour of police, it has been held by the Hon'ble Supreme Court in **Anwar Ahmad Vs. State of UP, AIR 1976 SC 680** that release of vehicle by police is invalid as police can only report the seizure to the Magistrate and only Magistrate can release the seized property. Vehicle involved in commission of dacoity, robbery and murder are also liable to be released on supurdnama.

### **Supurdnama of Mobile Phone**

While deciding supurdnama of mobile phone the court shall be very diligent. Electronic articles are speedy to damage. Court shall verify whether the mobile phone belongs to the applicant. Proper bills of the mobile phone shall be verified by the court. If necessary, court shall also order to make a clone of seized mobile phone as per procedure and then give the phone to applicant. If the offence is related to the mobile phone then court shall not give the phone in supurdnama.

### **Supurdnama of Gold Articles**

While deciding the supurdnama of Gold articles the court shall hear the accused also. If the court after hearing the arguments finds that the gold articles belong to the applicant, the court shall ask the applicant to give the bond attached with the photograph of seized gold having a specific condition that the original form of gold should not be changed. Panchnama regarding the form and weight of such gold articles shall be made. While dealing with the supurdnama of gold articles it is also commonly seen that the seized items may not be in the actual form, in such conditions court shall take special affidavit from the applicant that the seized gold

belongs to him, only after full satisfaction court shall give supurdnama in such conditions.

### **Supurdnama of Forest Produce**

It was observed in **State of Karnataka Vs. K.A. Kuuchindammed, (2002) 9 SCC 90** that the Magistrate while dealing with the case of any seizure of forest produce under the Indian Forest Act, 1927 should examine whether the power to confiscate the seized forest produce is vested in the authorized officer under the Act and if he finds that such power is vested in the authorized officer then he has no power to pass an order dealing with interim custody/release of the seized material.

### **Supurdnama of Perishable Goods**

Hon'ble Supreme Court has observed in the case of **Agro Industries Vs. State of Punjab 2008 (15) SCC 784**, that in case of perishable items/goods like paddy/rice seized, the court would pass order for its sale by public auction or otherwise expeditiously.

### **Supurdnama under Special Acts**

#### **Supurdnama under Excise Act**

In **Anil Kumar Narmada vs. State of Chhattisgarh ,Cr.M.P. No. 1017 of 2014, dated 06.01.2015** it was held by the Lordship of Hon'ble High Court of Chhattisgarh that once the confiscation procedure is initiated by the Collector under Section 47A of Chhattisgarh Excise Act, and the intimation has been made to the trial court having jurisdiction to try the offences under clause (a) of sub-Section 3 of Section 47-A of the Act, then the trial court ceases to have jurisdiction to make order from the date when he received intimation.

## **Supurdnama under Narcotics Drugs and Psychotropic Substances Act**

**Hon'ble Supreme Court in Bishwajit Dey vs. State of Assam, 2025 INSC 32,** recently have discussed superdnama of seized vehicle in lengths, this judgment discusses four scenarios in which drugs or substances may be seized from a vehicle:

1. When the vehicle owner is found to possess contraband.
2. When the owner's agent (like a driver or cleaner) is found with contraband.
3. When the vehicle is stolen by the accused and contraband is found.
4. When contraband is seized from a third-party occupant of the vehicle without evidence that the owner knew about it.

In the first two cases, the owner or agent would be considered an accused party. In the third and fourth, the owner and agent would not be accused. The court suggests that, in the first two scenarios, the vehicle may not be released until the accused owner proves their innocence. However, in the third and fourth scenarios, the vehicle should generally be released on bond, unless there are further developments. The court clarifies that this approach is not rigid, and trial courts may take different views based on facts of the cases.

Regarding the supurdnama, the order dated 11.12.2020 of the Hon'ble Chhattisgarh High Court in **Tikeshwar Sinagh vs. State of Chhattisgarh, Cr.M.P. No-1374/2020 (AFR)** is important. In the said judgment, it has been held that the vehicle seized in the offence under Section-20 (B) of the NDPS Act 1985 should be confiscated as per the Code of Criminal Procedure.

### **Supurdnama under Chhattisgarh Agricultural Cattle Preservation Act 2004**

Section 6 of the Chhattisgarh Agricultural Cattle Preservation Act prohibits the transport, sale, or offering to transport agricultural cattle within or outside the state for the purpose of slaughter. If this law is violated, the vehicle or conveyance used to transport the cattle is subject to seizure by an authorized officer. The vehicle cannot be released before six months or until the final court judgment, whichever comes first, and may be confiscated at the end of the trial.

This section was clarified in the case of **Narayan Sahu vs. State of Chhattisgarh (2021) Cr.M.P. No.234 of 2021, dated 10.03.2021**, where the court highlighted that sub section 1 of Section 6 specifically bars transport and possession of cattle for slaughter or with the knowledge that they may be slaughtered. However, transporting cattle for purposes other than slaughter is not prohibited under this section, and in such cases, the provision in sub section 3 of Section 6 would not apply.

Under **Section 7** of Chhattisgarh Agricultural Cattle Preservation Act it is provided that till the conclusion of prosecution, seized Agricultural cattle will be under custody of nearest registered Goshala, Gosadan, Gorakshan sansthan or other registered sansthan and they are required to provide monthly report to concerned court in prescribed proforma.

### **Supurdnama under Indian Forest Act, 1927 :**

In view of the bar contained u/s 52-D of the Indian Forest Act, 1927, Judicial Magistrate or the Sessions Judge have no power to order release of vehicle detained. Section 52-D of the Indian Forest Act, 1927 has overthrown the jurisdiction of all courts to release vehicle. **State of Madhya Pradesh Vs. Uday Singh, AIR 2019 SC 1597**

### **Supurdnama under Wild Life Protection Act, 1972**

In the case of **Arvind Kumar Dube Vs. State of UP 2005 (3) AWC 2970 (All)**, truck loaded with wood of forest department was used in commission of offences u/s 26 of the Indian Forest Act, 1927 and u/s 29, 39, 50 & 51 of the Wild Life Protection Act, 1972. Truck was confiscated and driver was arrested. Owner of the truck had no knowledge that his truck was used in commission of the said offences. Owner was not accused in the case. The High Court found it proper to direct the lower court to release the truck in favour of its owner with necessary conditions.

In **Robin Lal vs. State of Chhattisgarh, Cr.M.P. No. 306 of 2018 dated 11.07.2018**, the Hon'ble High Court considered the relevant provisions of the Wildlife Protection Act, particularly sub section 3A of Section 50 which deals with the custody of seized animals, and sub section 2 of Section 51 which allows for the forfeiture of items like vehicles used in the commission of offenses under the Act, only after conviction. The Court noted that sub section 3A of Section 50 applied specifically to animals and not to vehicles. Further, it clarified that the provisions of the CrPC also apply, allowing a Magistrate to release the vehicle on an interim basis during the trial under Section 451 of CrPC. The Court thus allowed the vehicle to be released to the petitioner, subject to certain conditions, such as preparing a proper Panchnama, taking photographs, and obtaining a bond and surety for the vehicle's production when required during the trial.

### **Supurdnama under Arms Act, 1959**

Rifle/gun/revolver to be returned to its license holder. In **Shail Kumar Singh Vs. State of UP, 2001 (1) JIC 262 (All)** it was held that, Where sessions trial for offences u/s 147, 148, 149, 307 IPC and u/s 25/27 Arms Act was pending and the application for release of gun was moved by the licence holder who was father of the accused and not himself an accused was rejected by the Addl. Sessions Judge,

the High Court set aside the order of the ASJ and directed release of the gun in favour of the non-accused applicant/licence holder. Rifle/gun/revolver should be returned to its license holder if the license is still valid.

It was held in **Virendra Jaiswal Vs. State of UP, 2012 (77) ACC 876 (All)** Revolver used in commission of offence u/s 307 IPC should not be kept beyond 15 days in the police station and should be released by the court in favour of its licence holder.

### **Supurdnama under Customs Act**

Under sub section 1A of Section 110 of the Customs Act, 1962, the government can authorize the immediate disposal of perishable or hazardous goods, or goods that depreciate in value over time. Notified items like gold, foreign currency, electronic goods, and liquors are included in this category. The process is governed by the Disposal Manual, 2019, and related legal provisions.

### **Supurdnama under Money Laundering Act**

It was held by the Hon'ble Madras High Court that the expression 'property' would include the money in the bank account of the accused and there cannot be any fetter on the powers of the police officer in issuing prohibitory orders from operating the bank account of the accused when the police officer reaches the conclusion that the amount in the bank is the outcome of commission of offence by the accused.

### **Supurdunma under Essential Commodities Act**

According to Section 6E of Essential Commodities Act if any essential commodity is seized in pursuance of an order made under section 3 in relation thereto, or any package, covering or receptacle in which such essential commodity is found, or any animal, vehicle, vessel or other conveyance used in carrying such essential commodity is seized and the proceeding of confiscation under section 6A is

pending then in such cases any court, tribunal or other authority shall not have, jurisdiction to make orders with regard to the possession, delivery, disposal, release or distribution of such essential commodity, package, covering, receptacle, animal, vehicle, vessel or other conveyance.

Honourable High Court of Chhattisgarh in **Sunil Kumar Jaiswal vs State of Chhattisgarh, Cr.M.P. No. 1213 of 2017, dated 07.03.2018** has opined that if the confiscation procedure has been initiated under Section 6A of the Essential commodities act and proceedings under section 6B is followed then only there is a bar on court to dispose the seized property under Essential commodities Act, if the confiscation proceedings has not been initiated then the courts are independent to grant seized property according to the provisions of Cr.P.C.

### **Appeals and Revision of Supurdnama**

Section 500 B.N.S.S. idealises the concept of appeal that may be given birth by the aggrieved party who stands dissatisfied with the orders passed either under Section 498 B.N.S.S. or Section 499B.N.S.S. .

Supurdnama is not considered interlocutory order, it is considered as an order. Therefore a party aggrieved from the order of Supurdnama can apply for revision before the Sessions Court or High Court under section 438 B.N.S.S. and 442 of B.N.S.S.

According to Section 14A of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law. Therefore appeal lies to High Court against the order of Supurdnama by Special Court.

## **Conclusion**

The object of Supurdnama 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. From the discussion above we observe that in view of honorable Supreme Court in *Sunder Bhai Ambala Desai vs. State of Gujrat*, seized property shall not be kept in custody of police or in court until it is necessary. BNSS also provides the provisions for swift disposal of property. The courts shall promptly identify the rightful owner of the property while deciding the application of supurdnama.

***Thank You***