

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
MCRC No. 52351 of 2025
(SOHANLAL Vs THE STATE OF MADHYA PRADESH)

Dated : 09-12-2025

Shri Himanshu Thakur- Advocate for the applicant.

Shri Anand Soni- Additional Advocate General and Shri Hemant Sharma- G.A. for the State.

Shri Vinod Kumar Meena, S.P. Mandsaur present in person.

1] In this application, this Court has already granted interim bail to the applicant vide its order dated 05.12.2025, and considering the controversy involved, wherein, the applicant has contended that he was illegally arrested from a bus by the police personnel in the morning of 29.08.2025, whereas, he has been shown to be arrested in the evening at 05:15 p.m., and taking into account the CCTV footage of the bus in which the applicant was sitting, this Court had also directed the S.P., Mandsaur to remain present in this Court, and apprise about the entire episode looking to the *prima facie* defence established by the applicant. Today, Shri Vinod Kumar Meena, S.P. Mandsaur is present before this Court, and has informed that the six police personnel, who were found to be involved in the case, have already been suspended with immediate effect. Copy of the order of suspension order dated 06.12.2025 is also placed on record, and it is submitted that appropriate action shall be taken against the delinquent officers.

2] Shri Anand Soni, learned Additional Advocate General has submitted that the seizure of contraband was effected from the present applicant in the morning only, however, due to procedural lapses, it has been shown to be recovered in the evening. It is also submitted

that since this Court is considering the bail application only, its scope may not be enlarged.

3] Heard. *So far as the interim bail granted to the applicant vide Court order dated 05.12.2025 is concerned, the same is hereby made absolute, as no further order is required to be passed.*

4] However, under the facts and circumstances of the case, this Court finds it necessary to give certain directions to the respondent/State.

So far as the contention of Shri Soni that this Court should not enlarge the scope of this bail application is concerned, this Court finds that in order to safeguard the life and liberty of the citizens of this country, the immediate custodian of which is the High Court only, who can exercise its inherent powers not only under Section 482 of Cr.P.C./528 of B.N.S.S., but also plenary powers under Article 226 of the Constitution of India to safeguard the fundamental rights enshrined in the Constitution. Thus, at times, it becomes incumbent upon this Court to ensure that such rights are protected not only in the present, but in future also and that can only be done at the appropriate stage by giving appropriate directions.

5] This Court also finds that it is only in such circumstances as the present one, when the Court has the occasion to deal with such matters, and if such occasions/incidents are ignored or glossed over, the opportunity to undo the wrong is lost forever, again leaving the field open to the wrongdoers to have their say until the next time when some other such unfortunate incident takes place and some other person is victimised, which is brought to the knowledge of this Court. Thus, the contention of Shri Soni that this Court should confine itself to the jurisdiction of bail only is hereby rejected.

6] Now, turning to the main issue of proper investigation, reference may be had to the provisions of Section 105 and 185 of B.N.S.S., which read as under:-

“105. Recording of search and seizure through audio-video electronic means.

The process of conducting search of a place or taking possession of any property, article or thing under this Chapter or under section 185, including preparation of the list of all things seized in the course of such search and seizure and signing of such list by witnesses, shall be recorded through any audio-video electronic means preferably mobile phone and the police officer shall without delay forward such recording to the District Magistrate, Sub-divisional Magistrate or Judicial Magistrate of the first class.

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185. Search by police officer.

(1) Whenever an officer in charge of a police station or a police officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief in the case-diary and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(2) A police officer proceeding under sub-section (1), shall, if practicable, conduct the search in person:

Provided that the search conducted under this section shall be recorded through audio-video electronic means preferably by mobile phone.

(3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may, after recording in writing his reasons for so doing, require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the place to be searched, and so far as possible, the thing for which search is to be made; and such subordinate officer may thereupon search for such thing in such place.

(4) The provisions of this Sanhita as to search-warrants and the general provisions as to searches contained in section 103 shall, so far as may be, apply to a search made under this section.

(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith, but not later than forty-eight hours, be sent to the nearest Magistrate empowered to take cognizance of the offence, and the owner or occupier of the place searched shall, on application, be furnished, free of cost, with a copy of the same by the Magistrate.”

(Emphasis Supplied)

7] From the aforesaid provisions, which have been introduced for the first time in the B.N.S.S., the legislature has already taken into account the necessity to record the search and seizure through audio-video mode, however, it appears that the aforesaid provisions have been conveniently forgotten by the officers of the State. In such circumstances, the **Principal Secretary, Home Department/** respondent State is directed to apprise this Court about the steps taken to implement the aforesaid provisions.

8] It would also be relevant to mention here that in an earlier order passed by this Court in M.Cr.C. No.34624/2024 dated 19.09.2024, in which, the non-supply of CCTV footage of the police station was alleged, the following observations were made :-

“9] This court is also of the considered opinion that the time has come when the State Government should also give a thought to providing body cameras to police personnel, at least to the police force of some of the police stations in major cities, in addition to increasing the number of police personnel.”

9] The State is also directed to apprise this Court if the State has given any thought of providing body cams to the police personnel.

10] The **Principal Secretary, Department of Home**, shall appear before this Court either personally or through V.C. on the next date of hearing.

11] Let the matter be listed for further orders, on 12.01.2026.

(SUBODH ABHYANKAR)
JUDGE