Akash Kumar Pathak vs Directorate Enforcement on 13 November, 2026

Author: G. Satapathy

Bench: G. Satapathy

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLREV NO.695 of 2026
CNR NO.ODHC010711072026

(In the matter of application under Section 397 and 401 of the Code of Criminal Procedure, 1973 r/w. Sec. 47 of the Prevention of Money-laundering Act, 2002).

Akash Kumar Pathak ... Petitioner

-versus-

Directorate Enforcement, Government of India, Ministry of Finance Department of Revenue, Bhubaneswar ... Opposite Party

For Petitioner : Dr. A.K. Pathak, Advocate

For Opposite Party : Mr. R.K. Panda, Advocate

CORAM: JUSTICE G. SATAPATHY
DATE OF HEARING: 05.11.2026
DATE OF JUDGMENT: 13.11.2026

G. Satapathy, J.

1. This present Criminal Revision is directed against the impugned order dated 20.08.2026 passed by the learned Special Judge, CBI-1, Bhubaneswar in Criminal Misc. Case (PMLA) No. 12 of 2023 not only granting liberty to the complainant/ applicant to sell the two seized vehicles; one TATA Harrier car bearing Regd. No. OD-02-BG-1252 and another BMW car bearing Regd. No. OD-07-AG-7272, but also extending liberty to the CRLREV No.695 of 2026 Page 1 of 10 petitioner-cum-

accused Akash Kumar Pathak to take possession of the aforesaid vehicles standing in his name by furnishing on or before 15.09.2026 the Fixed Deposit Receipt(FDR) of Rs.55,50,000/- of any Nationalized Bank at Bhubaneswar in the name of the Director of Enforcement as security in an application under Rule-4(2) of the Prevention of Money-Laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013 (in short "the Rules").

2. The facts as discernible from the impugned order are that the aforesaid two vehicles were seized by the Officers of Enforcement Directorate in connection with the case registered against the petitioner as a part and parcel of the proceeds of crime and the aforesaid vehicles were provisionally attached to by the competent Authority and the provisional attachment was subsequently confirmed by the Adjudicating Authority U/S. 8 of the Prevention of Money-Laundering Act, 2022 (in short "the Act") in OA Nos. 615 of 2021 and 806/2023, but since the condition of the vehicles were found to be gradually CRLREV No.695 of 2026 Page 2 of 10 deteriorating diminishing its value, the Authority concerned sought for permission of the Special Court to sell the seized vehicles on the ground that the expenses of maintenance of these vehicles are likely to exceed its value in near future.

3. In order to obtain permission from the Special Court, the ED Authority through the learned Special PP has filed an application under Rule 4(2) of the Rules to sell the seized vehicles, but after perusing the valuation certificate dated 17.03.2025 of the aforesaid two seized vehicles and the retention order, which was confirmed by the Adjudicating Authority in OA Nos. 615 of 2021 and 806/2023 respectively, the learned Special Judge, CBI-1, Bhubaneswar has passed inter-alia the following order:-

> "xx xx xx xx Under such view of the matter and for the interest of both the parties, this court feels it desirable to grant leave to the applicant to sell the seized vehicles by exercising the power Under Rule-4 of the Rules. However keeping in view the Proviso of the said rule, accused Akash Pathak, the owner of the vehicles is given liberty to take possession of the vehicles standing in his name by furnishing fixed deposit receipt of Rs.55,50,000/- of any Nationalized Bank at Bhubaneswar as security in the name of the Director of Enforcement on or before 15.09.2026 xx xx xx".

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4. Heard, Dr. Abhay Kant Pathak, learned counsel for the revision petitioner and Mr. Rajat Kumar Panda, learned counsel for the ED and perused the record. It is

contended on behalf of the petitioner that the value of the seized vehicles have been obtained a year and half before, but the seized vehicles are lying exposed to the vagaries of weather and the value of the seized vehicle is really diminishing day by day, but the petitioner being the registered owner of the seized vehicles, may be allowed to retain the vehicles in interim custody to preserve its utility by furnishing property surety, instead of cash surety in the form of FDR as ordered by the learned Special Judge, CBI-1, Bhubaneswar. Dr. Pathak, accordingly, prays to allow the Revision by setting aside the impugned order and granting interim custody of the seized vehicle to the revision-petitioner on furnishing property surety instead of cash surety.

4.1. On the other hand, Mr. Rajat Kumar Panda, learned counsel for ED submits that the learned Special Judge, CBI-1, Bhubaneswar has passed the order rightly, CRLREV No.695 of 2026 Page 4 of 10 since Rule-4(2) of the Rules only provides for retaining of seized property by the accused on furnishing the value of the property by way of FDR and thereby, the impugned order having been passed in right perspective may not kindly be interfered with in this revision. Accordingly, Mr. Panda prays to dismiss the Revision Petition.

5. Admittedly, the aforesaid two vehicles i.e. TATA Harrier bearing Regd. No. OD-02-BG-1252 and the BMW car bearing Regd. No. OD-07-AG-7272 have been seized in connection with the case, but the aforesaid two vehicles belong to the petitioner. It is not disputed that the vehicles in question have in fact been attached by the order of the Deputy Director, ED U/S.5 of the Act on 29.12.2021 and on 31.01.2023, which have been subsequently confirmed by the Adjudicating Authority vide order dated 18.08.2022 and 30.06.2023 passed in OA Nos. 615 of 2021 & 806 of 2023 in an application U/S.8 of the Act, but these orders have never been challenged by the petitioner in any forum.

6. A plain perusal of the provision of Sec.5 of the Act would go to suggest that the Deputy Director has CRLREV No.695 of 2026 Page 5 of 10 authority to provisionally attach such property which is considered to be proceeds of crime, for a period not exceeding 180 days and the Director or any other Officer, who provisionally attaches any property U/S.5(1) of the Act shall, within a period of 30 days from such attachment, file a complaint stating the facts of such attachment before the Adjudicating Authority. Similarly, Sec.8(3) of the Act confers power of the Adjudicating Authority to pass order in writing confirming the attachment of the property U/S.5(1) of the Act or retention of property. Be that as it may, Sec.8(7) of the Act provides that where the trial under this Act cannot be conducted by reason of death of the accused or the accused being declared as a proclaimed offender or for any other reason or having commenced, but could not be concluded,

the Special Court shall, on an application moved by the Director or a person claiming to be entitled to possession of a property in respect of which an order has been passed under sub-section (3) of section 8, pass appropriate orders regarding confiscation or release of the property, as the case may be, involved in the CRLREV No.695 of 2026 Page 6 of 10 offence of money-laundering after having regard to the material before it. A harmonious construction of the aforesaid three provisions, there appears no dispute about the power of the Authority for passing order of attachment and of the Court passing order for confiscation or release of the property.

7. Addressing the submission advanced for the petitioner with regard to release of the vehicle on furnishing property as surety, this Court considers it proper to reiterate the 2nd proviso appended to Rule-4(2) of the Rules, which reads as under:-

> "Provided further that where the movable property is a mode of conveyance of any description, the authorized officer, after obtaining its valuation report from the Motor Licensing Authority or any other authority, as the case may be, may accept and retain the fixed deposit receipt of a nationalized bank equivalent to the value of the movable property as security in the name of Director of Enforcement and send a report to the Special Court or Adjudicating Authority, as the case may be, for information and appropriate action."

8. A careful scrutiny of the aforesaid provision makes it very clear that the Authorized Officer may CRLREV No.695 of 2026 Page 7 of 10 accept and retain the fixed deposit receipt of a Nationalized Bank equivalent to the value of the movable property as security in the name of Director of Enforcement and send a report to the Special Court or Adjudicating Authority as the case may be for information and appropriate action and, therefore, if the aforesaid provision read together with the provision of Sec.8(7) of the Act makes it very clear that the Special Court can direct for release of the seized property including vehicle in favour of the person claiming to be entitled to possession of the seized property thereof.

9. In this case, the learned Special Judge, CBI-1, Bhubaneswar has passed order by taking into account the valuation report of the seized vehicle dated 17.03.2025 which is more than one and half years back, but this Court considers that the learned Special Judge ought to have passed the order by taking a recent valuation report of the seized vehicles, however, the impugned order allowing the applicant to sell the vehicle by providing liberty to the petitioner to retain the vehicle by producing the relevant surety amount needs to be modified to the CRLREV No.695 of 2026 Page 8 of 10 extent of recent valuation of the vehicles. Undeniably, if the

petitioner wants to retain his vehicles, he can be allowed to retain the same by producing FDR of a Nationalized Bank equivalent to the value of the aforesaid two vehicles and if he fails to do so within a reasonable time, the Authorized Officer may sell such vehicles with the leave of the Special Court or the Adjudicating Authority as the case may be and deposit the sell proceeds in the nearest Government Treasury or branch of the State Bank of India or its subsidiaries or in any Nationalized Bank in fixed deposit and retain the receipt thereof.

10. In the result, the Criminal Revision stands disposed of accordingly by modifying the impugned order for retaining the vehicle by the revision-petitioner by furnishing fixed deposit receipt equivalent to the value of the seized vehicles as determined by the Authority. Consequently, the learned Special Judge, CBI-1, Bhubaneswar shall obtain a fresh valuation report of the seized vehicles and pass order accordingly providing opportunity to the petitioner to produce fixed deposit CRLREV No.695 of 2026 Page 9 of 10 receipt of any Nationalized Bank equivalent to the recent value of the aforesaid two vehicles in the name of the Director of Enforcement as security, failing which the seized vehicles have to be dealt with in accordance with law and Rules made applicable thereto.

11. It is clarified that the learned Special Judge, CBI-1, Bhubaneswar shall pass appropriate order qua the seized vehicles in this case within 15 days of receipt of the valuation report of the seized vehicles by providing opportunity to the petitioner and the ED.

(G. Satapathy) Judge Orissa High Court, Cuttack, Dated the 13th day of November, 2026/S.Sasmal Signature Not Verified Digitally Signed Signed by: SUBHASMITA SASMAL Designation: Sr. Stenographer Reason: Authentication CRLREV No.695 of 2026 Page 10 of 10 Location: High Court of Orissa Date: 13-Nov-2026 18:19:57