



**GUIDANCE BOOKLET ON DISPOSAL OF  
SEIZED NARCOTIC DRUGS  
CONVEYANCES AND OTHER ITEMS  
UNDER NDPS ACT, 1985 (2nd Edition)**



**NARCOTICS CONTROL BUREAU**  
Ministry of Home Affairs, Government of India

# ***OUR VISION***

Endeavour for a drug free society through coordination and cooperation with all stakeholders and creating synergy amongst them.

# ***OUR MISSION***

1. As Central Authority to effectively prevent and combat abuse of and illicit trafficking of narcotic drugs and psychotropic substances
2. To coordinate actions by various officers, State Governments and other authorities relating to enforcement under all relevant drug laws,
3. To coordinate actions taken by all concerned Ministries, Departments or Organizations in matters relating to drug abuse.
4. To ensure implementation of the National obligations under various International Conventions and Protocols in respect of counter measures against illicit trafficking.
5. To work in cooperation with Foreign Authorities and International Organizations to facilitate coordination and universal action,
6. As National Nodal Agency, to be a repository and reference point for data, issues and benchmarks pertaining to drug law enforcement,
7. To assess and analyze existing and emerging challenges, trends and operational capabilities to make appropriate interventions and advise the Central Government.
8. To make sustained efforts for capacity building and training of agencies involved in the field of drug law enforcement.

# ***OUR MOTTO***



**INTELLIGENCE**



**ENFORCEMENT**



**CO-ORDINATION**

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# ABBREVIATIONS



CS	:	Controlled Substances
CrPC	:	Code of Criminal Procedure
CBN	:	Central Bureau of Narcotics
CCF	:	Chief Controller of Factories
CBCS	:	Codeine Based Cough Syrup
DLEO	:	Drug Law Enforcement Officer
DLEA	:	Drug Law Enforcement Agency
DDC	:	Drug Disposal Committee
HLDDC	:	High Level Drug Disposal Committee
IO	:	Investigation Officer
NCB	:	Narcotics Control Bureau
ND	:	Narcotic Drugs
PS	:	Psychotropic Substances
RC	:	Registration Certificate
SPP/PP	:	Special /Public Prosecutor
SOP	:	Standard Operating Procedure





## FOREWORD

Drug trafficking is one of the biggest challenges in India. Agencies involved in supply control, tend to seize prohibited drugs and other items. However, disposal of such seized items is also becoming a menace. The seized drugs kept lying in godowns for year which is vulnerable to theft, pilferage, substitution, and also is hazardous in nature. Section 52A of the NDPS Act envisages pre-trial or earliest disposal of the seized items. Hon'ble Supreme Court as well as High Courts has taken serious view over the tardy disposal of seized items. In absence of consolidated guidelines, divergent views of the courts and some other practical difficulties, empowered officers find it difficult to undertake quick disposal. This Guidance book encompasses all the legal provisions as well as judgments of Hon'ble Supreme Court and High Courts relating to disposal of drugs and other seized items. I firmly believe that this book will help drug law enforcement agencies to swiftly dispose of the seized articles to avoid any untoward situation or adverse orders from the courts. I am thankful to Ms. Monika A. Batra, DDG (LAC/ER) and Sh. Japan Babu, Additional Legal Adviser for their valuable contributions in devising this booklet.

**(Satya Narayan Pradhan)**  
Director General

## Introduction

Seizures of prohibited articles under NDPS Act, 1985 may be a difficult task, but their disposal is equally a cumbersome task. Seizure of Narcotic Drugs, Psychotropic Substances and Controlled Substances and other articles pose serious storage issues apart from the risk of pilferage, theft, substitution, consumption by rodents. The NDPS Act, 1985 is a special law and a complete code in itself. It contains all the procedures pertaining to drugs. However, due to certain practical difficulties and lack of consolidated guidelines, drug law enforcement agencies find it difficult to undertake early disposal. Hon'ble Supreme Court of India took a grim view of the situation and inter alia observed in **Union of India vs. Mohan Lal**, <sup>1</sup>Criminal Appeal No. 652 of 2012 that;

*the procedure prescribed for the destruction of the contraband seized in different States was not being followed resulting in a very piquant situation in which accumulation of huge quantities of the seized drugs and narcotics has increased manifold the chances of their pilferage for re-circulation in the market. This Court also noted a report published in the timesofindia.indiatimes.com under the heading "Bathinda's police stores bursting at seams with seized narcotics" from which it appeared that large quantities of seized drugs had accumulated over the years including opium, poppy husk, charas etc. apart from narcotic substances. The report suggested that 39 lakhs sedatives and narcotic tablets, 1.10 lakhs capsules, over 21,000 drug syrups and 1828 sedative injections apart from 8 kgs. of smack and 84 kgs. of ganja were awaiting disposal in Bathinda Police stores alone. The position was, according to Mr. Sinha, no better in other States especially those situate along the international borders.*

Hon'ble Orissa High Court in **State of Odisha vs. Registrar General, High Court Orissa Cuttack** <sup>2</sup>reviewed the implementation of the guidelines laid down by Hon'ble Supreme Court of India in Union of India vs. Mohan (Supra) and answered the practical difficulties faced by the investigation officer;

<sup>1</sup> Criminal Appeal No. 652 of 2012 dated 28.01.2016

<sup>2</sup> Writ Petition (Civil) No. 32580 of 2021 dated

*The Petitioner has highlighted a few difficulties faced in the implementation of Section 52-A of the NDPS Act and the guidelines issued by the Supreme Court in Mohanlal (supra). Some of these issues read as under:*

- "i. When certification of the drugs, required to be disposed of, is to be made by any Magistrate, no specified list of Magistrates, to carry out the work has been prepared till now;*
- ii. In absence of any specified/notified Magistrates, the respective IOs are placing the inventories before the jurisdictional Special Courts, for certification under section 52A (2), finding no other alternatives;*
- iii. The jurisdictional Special Courts have not been directed specifically to empower any of the Magistrates to carry out the job of certification as required under section 52A (2);*
- iv. As the samples of drugs, drawn under sub-section-2 of section 52A and certified by the Magistrates, is to be treated as a primary evidence, by the learned Court, trying an offence under the Act, as stated in section 52A (4), the very process of certification might be considered as quite delicate and hence the learned Special Courts might be under a state of confusion in absence of any specified directions;"*

Hon'ble High of Orissa laid down guidelines for investigating agencies as well as for courts.

Apart of the disposal of narcotic drugs, there are other items, which also needs swift disposal. Conveyances, concealment material, movable and immovable properties, cash and other valuables etc. also needs timely disposal to vacate the storage space and to avoid depreciation in their values.

Narcotics Control Bureau has attempted to follow the legislative as well judicial mandate and disposed of narcotic drugs in the earliest possible timeframe.



## Disposal done by NCB in last three years is as under;

Drug (In Kg)/Year	2021	2022	2023 (May)*
Amphetamine	0	23.813	10.312
Acetamenophen	0	8.985	0
Anthranillic Acid	0	2.404	0
Acetic Anhydride	0	302	2.63
Cocaine	10.078	4.27	24.597
Codeine	0	43.5	0
Ephedrine	185.206	3925	7.51
Ganja	23120.59	65599	11021
Hashish	571	1024	263
Hashish Oil	3	1.1	3.63
Heroin	933	340	684.29
Ketamine	148	1.06	0
Khat Leaves	15.9	0	0
MDMA	1.092	4.96	1.21
Mephedrone	0	5.048	10.175
Methamphetamine	12.864	357	13.49
Methaqualone	0	0.82	4.94
Morphine	20.383	28.784	66.46
Opium	176.161	151	182
Other Drug/Psy Sub	0	172	2.56
Poppy Straw	10122.89	26300	3177
Pseudo ephedrine	43.029	1127	40
Tablets (In Kg)	139	697	92.165
Total In Kg	35502.2	100119	15607
Tablets (In No.)	24043	12169798	1467314
Injections (In Ampules)	547	44337	3362
CBCS (In Bottles)	115357	404308	36353

### \*Provisional Data

NCB from June, 2022 to June 2023 has destroyed 1,51,649 Kgs of seized drugs. The value of this drug is more than 3600 crore.

This booklet intends to cover all possible aspects of disposal of seized items including drugs for the proper and timely disposal.

## Disposal of Narcotic Drugs, Psychotropic Substances and Controlled Substances.

Any drug interdiction operation may lead to two scenarios;

- (i) Seizure with arrest
- (ii) Unclaimed Seizures

As soon as, the seizure is effected, in order to ascertain the nature of drug samples have to be drawn. As per the directions passed by Hon'ble Supreme Court of India on 28.01.2016 in **Union of India vs. Mohan Lal (Supra)**, samples have to be drawn in the presence of magistrate. Hon'ble Supreme Court in para 14 has directed that;



*There is in our opinion no manner of doubt that the seizure of the contraband must be followed by an application for drawing of samples and certification as contemplated under the Act. There is equally no doubt that the process of making any such application and resultant sampling and certification cannot be left to the whims of the officers concerned. The scheme of the Act in general and Section 52-A in particular, does not brook any delay in the matter of making of an application or the drawing of samples and certification. While we see no room for prescribing or reading a time frame into the provision, we are of the view that an application for sampling and certification ought to be made without undue delay and the Magistrate on receipt of any such application will be expected to attend to the application and do the needful, within a reasonable period and without any undue delay or procrastination as is mandated by sub-section (3) of Section 52A (supra). We hope and trust that the High Courts will keep a close watch on the performance of the Magistrates in this regard and through the Magistrates on the agencies that are dealing with the menace of drugs which has taken alarming dimensions in this country partly because of the ineffective and lackadaisical enforcement of the laws and procedures and cavalier manner in which the agencies and at times Magistracy in this country addresses a problem of such serious dimensions.*

In the both the scenarios, officer so empowered should move an application u/s 52A (2) immediately after seizure and produce the seized articles before jurisdictional Magistrate and sample shall be drawn in his presence and at his directions. Section 52A of the NDPS Act, 1985 stipulates the procedure for pre-trial disposal of seized contraband. The provision reads;

*52A. Disposal of seized narcotic drugs and psychotropic substances.-*

- (1) The Central Government may, having regard to the hazardous nature of any narcotic drugs or psychotropic substances, their vulnerability to theft, substitution, constraints of proper storage space or any other relevant considerations, by notification published in the Official Gazette, specify such narcotic drugs or psychotropic substances or class of narcotic drugs or class of psychotropic substances which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner as that Government may from time to time, determine after following the procedure hereinafter specified.*
- (2) Where any narcotic drug or psychotropic substance has been seized and forwarded to the officer-in-charge of the nearest police station or to the officer empowered under section 53, the officer referred to in sub-section (1)*

*shall prepare an inventory of such narcotic drugs or psychotropic substances containing such details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the narcotic drugs or psychotropic substances or the packing in which they are packed, country of origin and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the narcotic drugs or psychotropic substances in any proceedings under this Act and make an application, to any Magistrate for the purpose of-*

- (a) certifying the correctness of the inventory so prepared; or*
- (b) taking, in the presence of such Magistrate, photographs of such drugs or substances and certifying such photographs as true; or*
- (c) allowing to draw representative samples of such drugs or substances, in the presence of such Magistrate and certifying the correctness of any list of samples so drawn.*

*(3) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.*

*(4) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) or the Code of Criminal Procedure, 1973 (2 of 1974), every court trying an offence under this Act, shall treat the inventory, the photographs of narcotic drugs or psychotropic substances and any list of samples drawn under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence].*

The above provision came up for interpretation before the Supreme Court in Crl. Appeal No.652 of 2012 in **Union of India vs. Mohanlal**. On analyzing Section 52-A of the NDPS Act, the Supreme Court observed as under:

*“16. Sub-section (3) of Section 52A requires that the Magistrate shall as soon as may be allow the application. This implies that no sooner the seizure is effected and the contraband forwarded to the officer-in-charge of the police station or the officer empowered, the officer concerned is in law duty-bound to approach the Magistrate for the purposes mentioned above including grant of permission to draw representative samples in his presence, which samples will then be enlisted and the correctness of the list of samples so drawn certified by the Magistrate. In other words, the process of drawing of samples has to be in the presence and under the supervision of the Magistrate and the entire exercise has to be certified by him to be correct.”*

It is clear from the plain reading of clause (4) of section 52A that the proceedings are carried out to create primary evidence for the purpose of trial. Therefore the exhibition of drugs is not required during trial through witnesses. In para-17 onwards of the **Mohan Lal (supra)**, Hon'ble Supreme Court has discussed about the manner for disposal of seized contraband & conveyances. In para-18, Hon'ble Supreme held that;

*18. Sub-para (2) of Para (4) provides that after the Magistrate allows the application under sub-section (3) of Section 52A, the officer mentioned in sub para (1) of Para (4) shall preserve the certified inventory, photographs and samples drawn in the presence of the Magistrate as primary evidence for the case and submit details of seized items to the Chairman of the Drugs Disposal committee for a decision by the Committee on the question of disposal. The officer shall also send a copy of the details along with the items seized to the officer in-charge of the godown. Para (5) of the notification provides for constitution of the Drugs Disposal Committee while para (6) specifies the functions which the Committee shall perform. In para (7) the notification provides for procedure to be followed with regard to disposal of the seized items, while para (8) stipulates the quantity or the value upto which the Drugs Disposal Committee can order disposal of the seized items. In terms of proviso to para (8) if the consignments are larger in quantity or of higher value than those indicated in the table, the Drugs Disposal Committee is required to send its recommendations to the head of the department who shall then order their disposal by a high level Drugs Disposal Committee specially constituted for that purpose. Para (9) prescribes the mode of disposal of the drugs, while para (10) requires the Committee to intimate to the head of the Department the programme of destruction and vest the head of the Department with the power to conduct a surprise check or depute an officer to conduct such checks on destruction operation. Para (11) deals with certificate of destruction while paras (12) and (13) deal with details of sale to be entered into the godown register and communication to be sent to Narcotic Control Bureau.*

After drawal of samples, IO must ensure timely forwarding of samples to the forensic laboratory for chemical analysis/exact characterization. After receipt of the chemical analysis report, the department should initiate disposal process. The detailed procedure for disposal of narcotic drugs has been issued by the Ministry of Finance vide Notification G.S.R. 899 (E) dated 23.12.2022 as "The Narcotic Drugs & Psychotropic Substances ( Seizure, Storage, Sampling and Disposal) Rules, 2022". The relevant chapter of the notification is reproduced as under;

# CHAPTER IV

## DISPOSAL

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16. **Items that can be disposed of.** - Having regard to the hazardous nature, vulnerability to theft, substitution and constraints of proper storage space, all narcotic drugs, psychotropic substances, controlled substances and conveyances, as soon as may be after their seizure, shall be disposed of in the manner determined under section 52A of the Act.
17. **Officers who shall initiate action for disposal.** - Any officer in-charge of a police station or any officer empowered under section 53 of the Act shall initiate action for disposal of narcotic drugs, psychotropic substances, controlled substances or conveyances under section 52A of the Act after the receipt of chemical analysis report.
18. **Application to Magistrate.** - (1) The officer empowered under section 53 of the Act or if the materials are seized by such an officer himself, he shall apply to the Magistrate under sub-section (2) of section 52A of the Act in Form-5 at the earliest to allow the application under sub-section (3) of section 52A of the Act.
- (2) After the Magistrate allows the application under sub-section (3) of section 52A of the Act, the officer referred to in sub-rule (1) shall preserve the certified inventory, photographs and samples drawn in the presence of the Magistrate as primary evidence for the case and submit details of the seized materials to the Chairman of the Drug Disposal Committee for a decision by the Committee on the disposal, and the said officer shall also send a copy of the details along with the seized materials to the officer-in-charge of the godown.
19. **Drug Disposal Committee.** - The Head of the Department of each Central drug law enforcement agency and State drug law enforcement agency shall constitute one or more Drug Disposal Committees comprising of three Members each which shall be headed by an officer not below the rank of the Superintendent of Police or Joint Commissioner of Customs and Central Goods and Services Tax, Joint Director of Directorate of Revenue Intelligence or officers of

equivalent rank and every such Committee shall be directly responsible to the Head of the Department.

20. **Functions of the Drug Disposal Committee.** - The functions of the Drug Disposal Committee shall be to, -

- (a) meet as frequently as possible and necessary;
- (b) conduct a detailed review of seized items pending disposal;
- (c) order disposal of seized items, and
- (d) advise the respective investigation officers or supervisory officers on the steps to be initiated for expeditious

disposal.

21. **Procedure to be followed by the Drug Disposal Committee with regard to disposal of seized materials.** -

- (1) The officer-in-charge of the godown shall prepare a list of all the seized materials that have been certified under section 52A of the Act and submit it to the Chairman of the concerned Drug Disposal Committee.
- (2) After examining the list referred to in sub-rule (1) and satisfying that the requirements of section 52A of the Act have been fully complied with, the Members of the concerned Drug Disposal Committee shall endorse necessary certificates to this effect and thereafter that Committee shall physically examine and verify the weight and other details of each of the seized materials with reference to the seizure report, report of chemical analysis and any other documents, and record its findings in each case.
- (3) In case of conveyance, the committee shall verify the engine number, chassis number and other details mentioned in panchnama and certify the inventory thereof.

22. **Power of Drug Disposal Committee for disposal of seized material.** - The Drug Disposal Committee can order disposal of seized materials up to the quantity or value indicated in the following Table, namely: -

Sl. No.	Name of item	Quantity per consignment
(1)	(2)	(3)
1.	Heroin	5 Kilogram
2.	Hashish (Charas)	100 Kilogram
3.	Hashish Oil	20 Kilogram
4.	Ganja	1000 Kilogram
5.	Cocaine	2 Kilogram
6.	Mandrax	3000 Kilogram
7.	Poppy Straw	Up to 10 Metric Tonne.
8.	Other narcotic drugs, psychotropic substances, or controlled substances	Upto a quantity of 500 Kilogram or 500 Litre
9.	Conveyances	Upto a vaule of Rs. 50 Lakh:

Provided that if the consignments are larger in quantity or of higher value than those indicated in the Table, the Drug Disposal Committee shall send its recommendations to the Head of the Department who shall order their disposal by a high-level Drug Disposal Committee specially constituted in this regard.

23. **Mode of disposal.** - (1) Opium, morphine, codeine and thebaine shall be disposed of by transferring to the Government Opium and Alkaloid Works under the Chief Controller of Factories.

(2) In case of narcotic drugs and psychotropic substances other than those mentioned in sub-rule (1), the Chief Controller of Factories shall be intimated by the fastest means of communication available, the details of the seized materials that are ready for disposal.



(3) The Chief Controller of Factories shall indicate within fifteen days of the date of receipt of the communication under sub-rule (2), the quantities of narcotic drugs and psychotropic substances, if any, that are required by him to supply as samples under rule 67B of the Narcotic Drugs and Psychotropic Substances Rules, 1985.

(4) The quantities of narcotic drugs and psychotropic substances, if any, as required by the Chief Controller of Factories under sub-rule (3) shall be transferred to him and the remaining quantities of narcotic drugs and psychotropic substances shall be disposed of in accordance with the provisions of sub-rules (5), (6) and (7).

(5) Narcotic drugs, psychotropic substances and controlled substances having legitimate medical or industrial use, and conveyances shall be disposed of in the following manner:

(a) narcotic drugs, psychotropic substances and controlled substances which are in the form of formulations and labelled in accordance with the provisions of the Drugs and Cosmetics Act, 1940 (23 of 1940) and rules made thereunder may be sold, by way of tender or auction or in such other manner as may be determined by the Drug Disposal Committee, after confirming the composition and formulation from the licensed manufacturer mentioned in the label, to a person fulfilling the requirements of the said Act and the rules and orders made thereunder: Provided that a minimum of 60% of the shelf life of the seized formulation remains at the time of such sale;

(b) narcotic drugs, psychotropic substance and controlled substances seized in the form of formulations and without proper labelling shall be destroyed;

(c) narcotic drugs, psychotropic substances and controlled substances seized in bulk form may be sold by way of tender or auction or in such other manner as may be determined by the Drug Disposal Committee, to a person fulfilling the requirements of the Drugs and Cosmetics Act, 1940 (23 of 1940) and the Act, and the rules and orders made thereunder, after confirming the standards and fitness of the seized substances for medical purposes from the appropriate authority under the said Drugs and Cosmetics Act, 1940 and the rules made thereunder;

(d) controlled substances having legitimate industrial use may be sold, by way of tender or auction or in such other manner as may be determined by the Drug

Disposal Committee, to a person fulfilling the requirements of the Act and the rules and orders made thereunder;

(e) seized conveyances shall be sold by way of tender or auction as may be determined by the Drug Disposal Committee.

(6) Narcotic drugs, psychotropic substances and controlled substances which have no legitimate medical or industrial use or such quantity of seized substance which is not found fit for such use or could not be sold shall be destroyed.

(7) The destruction referred to in clause (b) of sub-rule (5) and sub-rule (6) shall be by incineration in incinerators fitted with appropriate air pollution control devices, which comply with emission standards and such incineration may only be done in places approved by the State Pollution Control Board or where adequate facilities and security arrangements exist and in the latter case, in order to ensure that such incineration may not be a health hazard or polluting, the consent of the State Pollution Control Board or Pollution Control Committee, as the case may be, shall be obtained, and the destruction shall be carried out in the presence of the Members of the Drug Disposal Committee.

24. **Intimation to Head of Department on destruction.** -The Drug Disposal Committee shall intimate the Head of the Department regarding the destruction referred in sub-rule (7) of rule 23, at least fifteen days in advance so that, in case he deems fit, he may either himself conduct surprise checks or depute an officer for conducting such surprise checks and after every destruction operation, the Drug Disposal Committee shall submit to the Head of the Department a report giving details of destruction.

25. **Certificate of destruction.** - (1) A certificate of destruction in Form-7 shall be prepared in triplicate and signed by the Chairman and Members of the Drug Disposal Committee.

(2) The original copy of the certificate of destruction shall be pasted in the godown register after making necessary entries to this effect, the duplicate to be retained in the seizure case file and the triplicate copy shall be kept by the Drug Disposal Committee.

26. **Receipt by Government Opium and Alkaloid Works.** - (1) As and when seized narcotic drug, psychotropic substance, or controlled substance is transferred to the Government Opium and Alkaloid Works, it shall issue a certificate in Form-8, acknowledging the receipt of such transfer, which shall be signed by an authority as may be decided by the Chief Controller of Factories.
- (2) The Government Opium and Alkaloid Works shall maintain a register in Form-9 containing details of seized narcotic drug, psychotropic substance, and controlled substance transferred to it, which shall be signed by an authority as may be decided by the Chief Controller of Factories and which shall be preserved for a period of twenty-five years from the date of last entry.
27. **Certificate of Disposal.** - (1) As and when the seized narcotic drug, psychotropic substance, controlled substance or conveyance is transferred to the Government Opium and Alkaloid Works or sold by way of tender or auction or in any other manner determined by the Drug Disposal Committee, a certificate of disposal in Form-10 shall be prepared in triplicate and signed by the Chairman and Members of the Drug Disposal Committee.
- (2) The original copy of the certificate of disposal shall be pasted in the godown register after making necessary entries to this effect, the duplicate copy shall be retained in the seizure case file and the triplicate copy shall be kept by the Drug Disposal Committee.
28. **Communication to Narcotics Control Bureau.** - (1) The Head of the Department of each Central drug law enforcement agency and State drug law enforcement agency shall submit a quarterly report in Form-11 to the Narcotics Control Bureau giving details of action taken for disposal of narcotic drugs, psychotropic substances, controlled substances and conveyances under section 52A of the Act.
- (2) The return for a quarter shall be submitted before the last day of the month following that quarter.

Explanation. - For the removal of doubts, it is hereby clarified that for the purpose of sub-rule (2) the expression "quarter" shall be January to March, April to June, July to September and October to December of every year.

**FORM-4**

**INVENTORY OF SEIZED NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES,  
CONTROLLED SUBSTANCES AND CONVEYANCES**

[under Section 52A (2) of the Narcotic Drugs and Psychotropic Substances Act, 1985]

Case No.-----

Seizing agency:-----

Seizing officer:-----

Date of seizure:-----

Place of seizure:-----

Name and designation of the officer preparing this inventory:-----

TABLE

Sl. No.

Narcotic Drug/ Psychotropic Substance/ Controlled Substance/ Conveyance

Quality Quantity Mode of packing

Mark and numbers

Other identifying Particulars of seized items or packing

Country of origin

Remarks

Signature, name and designation of the officer

**Certification by the Magistrate under sub-section (3) of Section 52A  
of the Narcotic Drugs and Psychotropic Substances Act, 1985**

Whereas the above officer applied to me under sub-section (2) section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985 to certify the above inventory, and sub-section (3) of that section requires any Magistrate to whom an application is made to allow the application as soon as may be, I, having been satisfied that the above inventory is as per the seizure documents and the consignments of seized goods related to the case presented before me, certify the correctness of the above inventory.

**Signature, name and designation of the Magistrate**

## FORM-5

### APPLICATION FOR DISPOSAL OF SEIZED NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES, CONTROLLED SUBSTANCES AND CONVEYANCES UNDER SECTION 52A (2) OF THE NDPS ACT,

1985 [Application to be made by the officer in-charge of a police station or an officer empowered under section 53 of the Narcotic Drugs and Psychotropic Substances Act, 1985 who has custody of the seized narcotic drugs, psychotropic substances, controlled substances and conveyances]

To,

Learned Magistrate,  
—

Sir,

Sub: Application for certification of correctness of inventory, photographs and samples of seized narcotic drugs, psychotropic substances, controlled substances and conveyances

1. All narcotic drugs, psychotropic substances, controlled substances and conveyances have been identified by the Central Government under section 52A



To,

Learned Magistrate,

—  
Sir,

Sub: Application for certification of correctness of inventory, photographs and samples of seized narcotic drugs, psychotropic substances, controlled substances and conveyances

1. All narcotic drugs, psychotropic substances, controlled substances and conveyances have been identified by the Central Government under section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985 as vulnerable to theft and substitution vide Notification No.....dated.....
2. As required under sub-section (2) of section 52 A of the Narcotic Drugs and Psychotropic Substances Act, 1985, I submit the enclosed inventory of seized narcotic drugs, psychotropic substances, controlled substances, and/or conveyances and request you to-
  - (a) certify the correctness of the inventory;
  - (b) permit taking, in your presence, photographs of the seized items in the inventory and certify such photographs as true; and
  - (c) allow drawing of representative samples in your presence and certify the correctness of the list of samples so drawn.
3. I request you to allow this application under sub-section (3) of Section 52 A of the Narcotic Drugs and Psychotropic Substances Act, 1985 so that the seized narcotic drugs, psychotropic substances, controlled substances, and/or conveyances can thereafter be disposed of as per sub-section (1) of section 52A of the said Act retaining the certificate, photographs and samples as primary evidence as per sub-section (4) of section 52A (4).

Yours faithfully,

**Signature, name and designation of the officer**

Date :

**CERTIFICATE BY THE MAGISTRATE UNDER SUB-SECTION (3) OF SECTION 52A OF THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985**

I allow the above application under sub-section (3) of section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985 and hereby, certify the correctness of the enclosed inventory, the enclosed photographs taken and the list of samples drawn in my presence.

Signature, name and designation of the Magistrate



**CERTIFICATE OF DESTRUCTION**

This is to certify that the following narcotic drugs, psychotropic substances and controlled substances, were destroyed in our presence.

1. Case No.
2. Narcotic Drug / Psychotropic Substance / Controlled Substance:
3. Seizing agency:
4. Seizing officer:
5. Date of seizure:
6. Place of Seizure:
7. Godown entry number:
8. Gross weight of the drug seized:
9. Net weight of the narcotic drugs, psychotropic substances, controlled substances destroyed (after taking samples, etc.):
10. Where and how destroyed.

Signature(s), name(s) and designation(s) of Chairman/Members of the Drug Disposal Committee.





**FORM-8**

**(See rule 26 (1))**

**CERTIFICATE BY GOVERNMENT OPIUM AND ALKALOID WORKS**

Reference No.....

Date.....

This is to certify that the following narcotic drugs/ psychotropic substances/ controlled substances were received in the Government Opium and Alkaloid Works:

1. Case No:
2. Seizing agency:
3. Seizing officer:
4. Date of seizure:
5. Place of seizure:
6. Godown entry number:
7. Detail of the narcotic drugs/ psychotropic substances/ controlled substances received in the Government Opium and Alkaloid Works:
  - (a) Name of the narcotic drugs/ psychotropic substances/ controlled substances
  - (b) Net weight of the narcotic drugs/ psychotropic substances/ controlled substances received (if more than one drug and/or substance, net weight of the each to be specified)
8. Receipt of the aforesaid Narcotic Drug/Psychotropic Substance/ Controlled Substance has been entered in the register at Sl No.\_\_\_\_\_

Signature, name, designation, office address of the officer authorized to sign this certificate as provided in rule 26

## FORM-9

(See rule 26(2))

### REGISTER OF RECEIPT OF NARCOTIC DRUG/ PSYCHOTROPIC SUBSTANCE/ CONTROLLED SUBSTANCE TO BE MAINTAINED BY GOVERNMENT OPIUM AND ALKALOID WORKS

1. Sl No:
2. Case No:
3. Seizing agency:
4. Seizing officer:
5. Date of seizure:
6. Place of seizure:
7. Godown entry number:
8. Name of the Narcotic Drug / Psychotropic Substance / Controlled Substance:
9. Net weight of the Narcotic Drug / Psychotropic Substance / Controlled Substance received ( if more than one drug or substance, net weight of the each to be specified with consecutive serial number):
10. Reference No. and Date of the Certificate issued for receipt of the aforesaid Narcotic Drugs / Psychotropic Substance / Controlled Substance:

Signature, name, designation, office address of the officer authorized to sign this certificate as provided in rule 26

## FORM-10

(See rule 27)

### CERTIFICATE OF DISPOSAL

This is to certify that the following narcotic drugs, psychotropic substances, controlled substances, and conveyance were disposed of:-

1. Case No:
2. Seizing agency:
3. Seizing officer:
4. Date of seizure:
5. Place of seizure:
6. Godown entry number:
7. Detail of the Narcotic Drug / Psychotropic Substance / Controlled Substance:-
  - (a) Name of the drug/substance:
  - (b) Gross weight of the drugs/ substance seized (if more than one drug or substance, gross weight of the each to be specified):
  - (c) Net weight of the drug/ substance after taking samples (if more than one drug and/or substance, net weight of the each to be specified):
  - (d) Quantity transferred to Government Opium and Alkaloid Works:
  - (e) Reference No. and Date of the Certificate issued by Government Opium and Alkaloid Works:
  - (f) Quantity sold:
  - (g) Sale proceeds realised ( in Rupees)
  - (h) To whom sold:

8. Detail of the conveyance:-

- (a) Registration Number of the Conveyance
- (b) Description of the conveyance (manufacturer, mode, colour etc. to be specified):
- (c) Identification numbers of the conveyance, such as engine number, chassis number, etc. to be specified:
- (d) Sale proceeds realised (in Rupees)
- (e) To whom sold:

Signature (s), name (s) and designation (s) of Chairman and Members of the Drug Disposal Committee.

Hon'ble High Court of Orissa in State of Odisha vs. Registrar General Orissa High Court, Cuttack in para-25 directed that

25. Nevertheless, in order to speed up the process under Section 52-A (2) to (4) NDPS Act, the following directions are issued:

- (I) All pending applications shown in Annexure-3 to the petition shall be taken up forthwith by a First Class Magistrate specifically nominated in each of the respective districts by the District and Sessions Judge, who will deal with such applications exclusively on all working Saturdays of the month till the entire backlog is cleared. If the number of such pending cases is large in a particular district, the concerned District and Sessions Judge will nominate more than one Magistrate for that purpose who will take up the applications likewise.
- (ii) All such applications will be taken up chronologically with the oldest applications being listed first. Of course, wherever the urgent directions are required because of the possibility of the seized substances deteriorating, such applications can be taken up out of turn for reasons to be recorded in writing by the concerned Magistrate.

- (iii) There shall be strict compliance with the guidelines issued by the Supreme Court of India in Mohanlal (supra). All the applications under Section 52-A (2) to (4) NDPS Act pending before the learned Magistrates in the different judgeships in Odisha should be disposed of within a period of three months from today i.e. in any event on or before 1st May, 2022 and all fresh applications filed hereafter will be endeavoured to be disposed of within a period of ten days from the date of their filing.
- (iv) The State Forensic Science Laboratory (FSL) is requested to cooperate with the concerned Magistrates' Courts for the purposes of the implementation of the above directions in a time bound manner and correspondingly submit the test result reports to the concerned Courts within a period of two weeks of the receipt of the samples sent hereafter. As regards pending samples, the State FSL will clear the backlog and send their reports to the concerned Courts within a period of two months from today and in any event not later than 1st April, 2022.
- (v) On receipt of the test report, the Magistrate shall complete the remaining part of the exercise of taking photographs/videograph (of not more than 1 minute duration) that reveal the dimensions of the seized conveyance from all angles in digital format and encrypting them with the hash value in the presence of counsel for the parties within ten days from the date of receipt of the test report. In this regard, the Registry of the High Court will communicate to each District Judge, the detailed Standard Operating Procedure (SoP) and this part of the direction will take effect immediately after the receipt of the SoP by the District Judge. The Registry of the High Court is requested to circulate to all the District Judges, the detailed SoP to be followed by each of the Magistrates.
- (vi) A monthly statement on the disposal of all such applications will be submitted to the concerned District Judge by the Magistrates and in turn such monthly statement should be forwarded simultaneously to the corresponding HLDDC and the Committee constituted by the Chief Justice of the High Court of Odisha on the administrative side. Both the HLDDC as well as the High Court Committee will meet with fair regularity to monitor implementation of these directions on the administrative side and call for an explanation from the concerned Magistrate if there is an inordinate delay in disposal of the application.

## POST TRIAL DISPOSAL

At the end of the trial, the court decides two issues, whether the accused persons are guilty or not and whether the offending goods are liable to be confiscated under section 60 or 61 of the NDPS Act. If the trial court does not give any order on the confiscation of the seized articles, IO should file revision before the High Court for decision on the confiscation of the seized items.

In cases of unclaimed seizures, IO should make all sincere efforts to trace out the offenders. If no person is traced, he should apply to the court for confiscation of such drugs and other articles under section 63 of the NDPS Act. Again Drug Disposal Committee shall carry out disposal of such confiscated items.



**DRUG DISPOSAL**

## Disposal of illicit cultivation

**Illicit Opium cultivation:** - Illicit cultivation of Opium poppy has been endemic in several parts of the country, both for the production of poppy seed as well as to obtain opium. Such cultivation on a noticeable scale has been reported in the past from Jammu & Kashmir, Himachal Pradesh, Uttarakhand, Bihar, Jharkhand, West Bengal, Manipur and Arunachal Pradesh.

**Illicit cultivation of Cannabis:** - Illicit cultivation of Cannabis has been reported from Arunachal Pradesh, Assam, Manipur, Tripura, West Bengal, Odisha, Bihar, Jharkhand, Andhra Pradesh, Himachal Pradesh, Uttarakhand and J & K.

Section 8 (b) of the NDPS Act prohibits illicit cultivation of opium poppy and cannabis plant except under license/permit granted by the authorities. Section 15 of the NDPS Act provides that whoever produces opium poppy in contravention of the provision of the NDPS Act shall be punishable offence. Section 46 of the NDPS Act casts duty on every land holder to give information of all the opium poppy, cannabis or coca plant which may be illegally cultivated within his land and every such holder of the land who knowingly neglects to give information shall also be liable for punishment. Section 47 of the NDPS Act casts duty on certain officers to give information about illicit cultivation. Every officer of the government and every panch, sarpanch and other village officer of whatever description shall give immediate information to any empowered officer. Section 48 of the NDPS Act empowers the officers to attach illegal crops.



## Data of Destruction of illicit Opium Poppy cultivation (in acre) is as under;

State/Year	2020	2021	2022	2023* (May)
Arunachal Pradesh	7858	4702	8785	0
Assam	20	5	215	0
Bihar	91	0	948	327
Gujarat	0	0	16	12
Himachal Pradesh	10	24	0	0
Jammu & Kashmir	893	293	89	0
Jharkhand	495	256	41	0
MadhyaPradesh	0	7	6	0
Manipur	1382	5740	3696	2449
Maharashtra	0	0	0	0
Odisha	0	0	0	0
Rajasthan	1	0	0	0
Uttarakhand	0	0	0	0
West Bengal	19	0	0	36
Total	10,769	11,027	13,796	2,824

## Data of Destruction of illicit cannabis cultivation (in acre) is as under;

State/Year	2020	2021	2022	2023* (May)
Andhra Pradesh	0	7083	469	0
Arunachal Pradesh	0	0	0	0
Assam	0	0	0	0
Bihar	0	0	0	0
Gujarat	0	27	46	19
Himachal Pradesh	1582	1043	122	3
Jammu and Kashmir	295	523	365	0
Karnataka	4	0	0	0
Kerala	0	0	0	0
Madhya Pradesh	0	0	0	0
Maharashtra	0	71	0	0
Manipur	1	0	0	0
Odisha	18361	24550	24207	8136
Tamil Nadu	1	0	0	0
Telangana	30	9	0	0
Tripura	1284	1287	1057	186
Uttar Pradesh	0	0	0	0
Uttarakhand	0	0	0	0
West Bengal	1	273	0	0
Total	21,559	34,866	26,266	8,344



During the course of destruction of illicit cultivation, following problems are faced by the officers:

- Non availability of local laborers.
- Difficulty in burning crops.
- Difficulty to reach and stay at remote location/high altitudes areas.
- Stiff resistance by locals in certain areas.
- Shifting of cultivation areas.
- Off-season cultivation.
- Limitation of satellite imagery.
- Cultivation in forest/Govt. lands.
- Difficult to book cases against cultivators.
- Difficult to establish land ownership.

At the time of detection, proper identification should be done before destruction. The photographs of the land should be taken showing the nearest identification mark. Presence of the nearest Revenue Officer on the day of destruction must be requested. Certificate of Land Revenue Officer regarding the ownership of the land must be obtained. The details of the cultivated land should be mentioned in the Destruction Order/Destruction Certificate separately.

### **Guidelines for destruction:**

- Order for destruction should be obtained from the competent authority u/s 48 of the NDPS Act.
- Destruction Certificate should be prepared mentioning all the details of the land.
- Preliminary test to be done at the spot.
- All the procedure should be done in the presence of independent witnesses.
- Samples should be forwarded to the forensic lab within time.
- Concerned court should be informed about the destruction and offence committed by the land holder or the owner at the earliest.
- Photographs and Videography of land along with the prohibited plant and destruction operation must be taken.
- Statements of all concerned persons should be recorded.

### **USE OF TECHNOLOGY**

ADRIN

Advanced Data Processing Research Institute (ADRIN), Dept. of Space, Govt. of India is an institute under Indian Space Research Organisation (ISRO). NCB in collaboration

with CEIB and ADRIN uses satellite technology to map the illicit cultivation of opium poppy and cannabis crops.

Satellite imagery: - On receipt of the information regarding the suspected/potential areas of illicit cultivation from field formations of NCB and other law enforcement agencies ADRIN draw the satellite images of the identified areas and send the same to NCB through CIEB for onward transmission to the States NCB formations. After receipt of the Satellite images of the identified areas, the State Nodal Officers get the same verified on ground by deputing teams. Further, on the receipt of feedback reports of ground survey and destruction operations, NCB HQrs forward the same to ADRIN for further necessary action.

#### MAPDRUGS:

Narcotics Control Bureau (NCB) in collaboration with Bhaskaracharya National Institute for Space Applications and Geo-informatics (BISAG-N) Near CH '0' Circle, Highway, Indulal Yagnik Marg, Gandhinagar - Ahmedabad Rd, Gandhinagar, Gujarat 382007 developed. 'MAPDRUGS'<https://ayushman.ncog.gov.in/APK/NCB/NCBMobileApp.apk> (a data centric web-portal and Android based mobile application) and <https://api3.ncog.gov.in/NCB> (a data centric web - portal) for identification and destruction of illegal cultivation of Opium Poppy and Cannabis.

2. It has been prepared as dynamic Geographic Information System (GIS) platform wherein data from states and different agencies will be integrated in this platform. Both web portal and mobile application will resolve several issues such as:
  1. Ground survey and verification of illicit cultivation in difficult and hilly terrain.
  2. Feeding of real time data on verification.
  3. Easy for navigation to reach destination.
  4. Easy to read and decipher the satellite imageries.
  5. Mobile application can be used online as well as offline network
  6. Database will be real-time updated in Web portal dynamically.
  7. Data can be compiled at one place which can be accessed by DLEAs at any place, any time & anywhere.

**Use of Drones:** Drones are also effective tool for detection of illicit cultivation in difficult terrains.

## **Disposal of Conveyances Seized Under NDPS Act, 1985.**

Vehicles are commonly used for concealment & transportation of drugs and investment of drug proceeds. In view of section 60 (3) and Chapter V of NDPS Act, 1985 such conveyances are liable to be seized and confiscated/forfeited thereafter. Offices of DLEAs remain flooded with seized vehicles. Disposal of such conveyances keeping in view the vulnerability to theft, removal of parts, constraint of proper storage space, speedy decay, depreciation of value and deterioration without any benefit to anyone is need of the hour.

### **Pre Trial Disposal of Vehicles:**

As soon as a vehicle is seized, the IO shall ascertain present ownership and hypothecation details, if any, of the seized vehicle from the concerned Registering Authority/RTO. The intimation of such seizure shall be given to Registering Authority/RTO and lender, if any. He shall prepare an inventory of the seized conveyance in the format given as Annexure-1. He shall move an application before the trial court in term of S. 52 A (2) of the NDPS Act, 1985 r/w notification G.S.R. 899 (E) dated 23.12.2022 for certification of the correctness of the inventory and taking photographs, certification of such photographs and photocopies of RC/Insurance/Permit/Pollution and other relevant documents of the conveyance.

Permission of the Magistrate for taking photographs may be taken for taking photographs of the vehicle stationed at warehouse or any other place. The photographs of the cavities made in the vehicle shall be covered specifically. Photograph from all angles, chassis number and engine number etc. shall be taken.

In term of S. 52 A (2) of the NDPS Act, 1985 r/w notification G.S.R. 899 (E) dated 23.12.2022, no separate order is required for disposal of seized vehicle. The inventory, certified photographs and certified copies of Registration Certificate and other relevant documents would be forwarded to the trial court for treating it as primary evidence.

The copy of the inventory and other case documents, panchnama/seizure memo a set of photographs shall be forwarded to the drug disposal committee. Drug Disposal committee shall undertake disposal of such conveyance in either of the manner:

- (a) Through public Auctioning
- (b) Selling through MSTC Portal
- (c) Appropriation of the conveyance to the Government

The sale proceeds of such conveyances shall either be deposited in the official account of the DLEA and its proof would be submitted in the court or in the form of FD after deposition in any public sector bank would be submitted in the court. The Notification dated 23.12.2022 does not provide any enquiry by the Drug Disposal Committee before ordering disposal of a conveyance.

If trial court order confiscation/forfeiture of the conveyance to the department, the department shall forfeit the sale proceeds along with accrued interest in the manner provided in the law/rules.

If the vehicle is not confiscated/forfeited to the department, if department does not challenge the order in appellate forum, then such sale proceed would be released to the rightful owner with accrued interest under intimation of the court.

### **Post Trial Disposal of Seized Vehicles:**

The PP shall ensure that while passing the final judgment of the case, order on disposal/confiscation of seized conveyances are given by the presiding officer. The cases where judgments have been passed but no order on disposal of vehicle is given, in such cases, an application will be move in appellate High Court for revision on disposal of seized vehicles. Upon receiving such order, the drug disposal committee shall undertake the disposal in the manner provided hereinabove. The sale proceeds shall be forfeited to the government in the manner provided in law/rules etc.

### **Disposal of Vehicles seized under Chapter VA of the NDPS Act, 1985**

If the freezing order on conveyance is confirmed by the competent authority. The vehicle shall be handed over to the Administrator/Manager appointed by the Competent Authority. The zones will pursue it with the competent authority for taking over of the conveyance immediately by the Administrator/Manager.

The Competent Authority upon confirmation of the order and subsequent conviction of the accused shall initiate disposal of such vehicles as per provisions of The Illegal Acquired Property (Receipt, Management and Disposal), Rules 1989.

If seizure order is not confirmed by the competent authority, the rightful owner will be asked to collect the conveyance immediately. If the owner does not remove his vehicle in given timeframe, then after giving him a notice for six months, the vehicle would be disposed of in the manner already prescribed.

### **Disposal of the vehicles in cases where appeal/revisions etc are pending in appellate courts:**

In cases where appeal/revision etc. are pending in High Courts and Supreme Court, an application would be moved in concerned High Court or Supreme Court for seeking permission under S. 451/457 of CrPC disposal of vehicles. After seeking order from such appellate court the same course of action would be taken for disposal of such vehicles.

In present statutory framework there is no provision for release of vehicle on interim custody (Superdari/spurdaginama) to its rightful owner by the courts. And there is no scope for appeal against the order on the disposal of seized vehicles.

### **Appropriation of confiscated conveyances for Departmental Use.**

The conveyances which have been finally confiscated and have become Government property can be used for Government purposes in any exigency. However, the use of the seized conveyances should, be kept to the minimum and these should only be run from time to time to keep them in proper working condition and prevent their deterioration. Before selling confiscated conveyances, the possibility of utilizing the same for departmental use should be fully explored. The conveyance should, however, be utilized only after taking prior approval of Head Office.

The seized conveyance should be properly looked after during storage by running the engines and auxiliary machinery/equipment periodically, inflating the tyres (in case of vehicles), checking the engines, etc. and for keeping them in proper state of road/sea worthiness and to keep them, as far as possible, in proper running order.

Upon release/disposal of any such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be drawn.

The NDPS Amendment Act, 2014, brought significant change to Sec. 52A of the NDPS Act by including conveyances also among the items to be disposed. In exercise of the powers conferred under section 52A (1) of the NDPS Act, the Central Government, vide Ministry of Finance, Department of Revenue, Notification No.G.S.R.899 (E) dated 2312.2022 published in the Gazette of India had notified the procedure to be followed in the matter of disposal of narcotic drugs, psychotropic substances, controlled substances and conveyances (vehicles etc.). The said notification empowers the Head of the Department of the State Drug Law Enforcement Agency to constitute Drug Disposal Committees. Accordingly, the State and District Level Drug Disposal Committees have been constituted.

The judgment of the Supreme Court as well as the MoF notification provides for disposal of the conveyances within the shortest period of time by the Drug Disposal Committees (DDC). No other powers are vested with the DDC apart from disposal, hence the DDC cannot entertain any application/representations/appeals by the registered owner of the conveyances for release/interim release of conveyances.

The Hon. High Court of Kerala in Shajahan Vs Inspector of Excise and others, Crl. Rev. Pet No.1440/2018 has held that the Magistrate courts have no jurisdiction to release the vehicle involved in any NDPS case on interim custody u/s. 451 of the code of criminal Procedure, 1973. Hence disposal of conveyances should be given top priority by the drug disposal committees.

The seized property, especially Motor Vehicles, occupying substantial space in Police Stations is a common sight. They are parked in the open and are also prone to fast natural decay on account of weather conditions as well as thefts. The Hon'ble Supreme Court of India in Sunderbahai Ambalal Desai V. State of Gujarat (2002) 10 Scc 283, has observed that "even good maintained vehicles lose their road worthiness if kept stationary in the PS for a long time. Upon being kept in open, they are also prone to fast and natural decay. In any case, SHOs shall deposit case property in the concerned Courts within a week of their seizure and the Courts shall dispose them within a month...". Similarly, in General Insurance Council and others v/s The State of AP and others (Write Petition [C] No. 14 of 2008), the Hon'ble Supreme Court directed all the State Governments/Union Territories/ Director Generals of Police to ensure macro implementations of the statutory provisions. Andhra Pradesh Police has done a commendable job in this regard. The details are discussed later in this report.

# Annexure-1

## Inventory of seized conveyance

(Under section 52 A (2) of the Narcotic Drugs and Psychotropic Substance Act, 1985)

Case No.:

Seizing Agency:

Seizing Officer:

Date of Seizure:

Place of Seizure:

Name and designation of the officer preparing this inventory:

**Table**

1.	Conveyance
2.	Registration No.
3.	Chassis No.
4.	Engine No.
5.	Make
6.	Model
7.	Colour
8.	Ownership details
9.	Found in the possession of the person
10.	Cubic Capacity
11.	Total KM run
12.	RTO/Registering Authority

(Details of conveyance may be changed according to the type of conveyance i.e. vessel)



## **Disposal of seized valuables, currency, virtual currency etc.**

During the course of investigation, if any valuable item, currency etc. is seized, the IO should apply in the court to encash the items and deposit the sale proceeds, actual cash etc. in government treasury or official accounts.

In case of virtual currencies, IO may apply to the court for directions to the accused/virtual currency wallet holder to encash the amount in Indian rupees and deposit either in court in the form of FD or in government treasury or official account and may be forfeited thereafter.





## Disposal of movable and immovable properties

Sections 451 to 459 of the code of Criminal Procedure Act, 1973 deal with the powers of courts in the matter of disposal of property. Any order to be passed by a criminal court must come under one or another of the sections. What order should be passed by a court depends upon the section under which it passed the order, and that under which section it should pass the order depends upon the circumstances in which the property was seized or produced before it.

When an inquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.



If any property is confiscated, it will be forfeited by the departments. The movable as well as immovable property will be sold through public auctioning. The sale proceeds shall be deposited in government accounts.

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. 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 delivery of the property to the owner or otherwise in the interest of justice. The object of the Code of Criminal Procedure 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 act under the direct control of the court and have 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. 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 should be handed over to the complainant after:

- (i) Preparing detailed proper panchnama of such articles,
- (ii) Taking photographs of such articles and a bond that such articles would be produced if required at the time of trial, and
- (iii) After taking proper security.

Following judgments may be referred on this aspect:

- (i) *Multani Hanifbhai Kalubhai Vs. State of Gujarat & Another*, (2013) 3 SCC 240
- (ii) *Sunder Bhai Ambalal Desai Vs. State of Gujrat*, 2003(46) ACC 223 (SC)
- (iii) *Smt. Basavva Kom Dyamangouda Patil Vs. State of Mysore*, 1977(14) ACC 220(SC)

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 in **Sunder Bhai Ambalal Desai Vs. State of Gujarat, 2003(46) ACC 223 (SC)** has issued its directions thus : "We hope and trust that the concerned Magistrates would take immediate action for seeing that the powers u/s 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 15 days to one month. This object can also be achieved if there is proper supervision by the registry of the concerned High Courts in seeing that the rules framed by the High Court with regard to such articles are implemented properly".

Chapter 34 of the Criminal Procedure Code, 1973 explains the provisions relating to case property under Sections 451 to 459. The power conferred under sections 41(d), 47, 51, 93, 74, 100, 101, 102, 153, 165 of Code of Criminal Procedure, 1973, the police officer can seize or recover property. Besides these, investigation officer can seize or recover property under various provisions of many special Acts such as NDPS, prevention of Food Adulteration Act, Andhra Pradesh Gaming Act, Drugs and Cosmetics Act, 1940 etc.,

The Hon'ble Apex Court, **Sunderbha1 Ambalal Desai vs State Of Gujarat, 2002 Sup(3) SCR 39 = (2002) 10 SCC 283**, succinctly explained the object and scheme of the various provisions of the Code as to disposal of case property. The Hon'ble Supreme Court, in the above case, observed as follows:

"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."

In view of the ratio-laid down by the Hon'ble Apex Court, it is clear that unless the case property is absolutely necessary, court cannot retain the case property either in the custody of court or in the custody of police for any time longer. Therefore, it is the duty of court to pass appropriate property orders according to law without any delay.

## **CHAPTER - XXXIV OF CR.P.C:-**

**Section 451:-** (i) when any property is produced before any Criminal Court during any inquiry or trial, the Court may order such property for proper custody, pending the conclusion of the inquiry or trial.

(ii). 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.

**2002 Sup (3) SCR 39 = (2002) 10 SCC 283. Sunderbha<sup>1</sup> Ambalal Desai vs State Of Gujarat.**

Held:- "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."

**Section 452:-** (i). Order under this section should be passed at conclusion of trial.

(ii). The Court may make such order (with or without any condition) for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to.

(iii). But, the Court has to make such order engaging that person to restore such property to the Court if the order made under sub- section (1) is modified or set aside on appeal or revision. However, if property is livestock or is subject to speedy and natural decay, this condition to wait until lapse of appeal time does not arise.

(iv). While passing order under this section, 'APPEAL TIME' is to be kept in mind.

(v). Under this section, a Court of Session may direct the property to be delivered to the Chief Judicial Magistrate, who shall thereupon deal with it in the manner provided in sections 457, 458 and 459.

6. This section also applies to such property which had been given for interim safe custody *pendetilite*.

3. **Section 453 :-** (I). This section applies to Payment to innocent purchaser of money found on accused. (It applies to cases such as theft, and receiving or retaining stolen property).

(ii). Under this section, on application, the Court can order to make payment to innocent purchaser out of money found on accused. (iii). If no money is found on accused, the court cannot order accused who is convicted or the owner to make

payment of purchase money to the innocent purchaser. Of course, the innocent purchaser may approach civil court for such claim.

4. **Section 454:-** Appeal against order passed u/Sec. 452 or sec.453 of Cr.P.C
5. **Section 455:-** (i). Under this section, the Court has to order destruction of libellous and other matter.  
  
(ii). When an accused is convicted for offences under sections 292, section 293, section 501 or section 502 IPC, the Court may order the destruction of all the copies of the thing.

In like manner, on conviction of offences under sections 272 to 275 IPC, The Court may order the food, drink drug or medical preparation in respect of which the conviction was had, to be destroyed. See:- **Veerabhadra Vs. State, AIR 1940 Mad. 9536.**

**Section 456:-** (i). It provides procedure as to Power to restore possession of immovable property.

(ii). This section deals with immovable property whereas section 451 to 455 deal with movable property.

(iii). The jurisdiction of criminal court under this section is quasi civil in nature.

(iv). If a criminal court passes an order under this provision, the aggrieved party can also approach civil court to set aside such order.

**7. Section 457 :-** (I). When case property is reported to Magistrate by police, this section applies.

(ii). Under this section, during an inquiry or trial, the Magistrate may order disposal of such property or the delivery of such property to the person entitled to.

**8. Section 458:-** (i). This section provides procedure for disposal of property when no claimant appears within six months.

(ii). If the claimant fails to prove his ownership over the property, the Court has to draw presumption under section 110 of Indian Evidence Act.

- (iii). Under this section, when proclamation issued under section 457 of Cr.p.c and 6 months have been expired, Magistrate may order that such property shall be at the disposal of the State Government and may be sold by that Government and the proceeds of such sale shall be remitted to the State.
- (iv). Appeal lies against such order. See. Section 110 of Indian Evidence Act, 1872. Burden of proof as to ownership.-When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.

**9. Section 459:-** Magistrate has power to sell perishable property under this provision **in case titled Manjit Singh vs State**, CRL.M.C. 4485/2013 and Crl.M.A.No.16055/2013 Decided on 10.09.2014 by **Hon'ble High Court of Delhi laid following Guidelines on the captioned subject:**

### **Summary of principles of Law:**

Para 54. The properties seized by the police during investigation or trial have to be produced before the competent Court within one week of the seizure and the Court has to expeditiously pass an order for its custody in terms of the directions of the Supreme Court in **Basavva Kom Dyamangouda Patil v.State of Mysore, Sunderbhai Ambalal Desai v. State of Gujarat** Sunderbhai Ambalal Desai v. State of Gujarat and **General Insurance Council v. State of A.P.**

55. The Court has to ensure that the property seized by the police should not be retained in the custody of the Court or of the police for any time longer than what is absolutely necessary and in any case, for not more than one month.
56. If the property is subject to speedy and natural decay or if it is otherwise expedient to do so, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.
57. The expeditious and judicious disposal of a case property would ensure that the owner of the article would not suffer because of its remaining unused or by its misappropriation; Court or the police would not be required to keep the article in safe custody; and onerous cost to the public exchequer towards the cost of storage and custody of the property would be saved.

## Time limit for release

58. Whenever a property is seized by the police, it is the duty of the seizing officer/SHO to produce it before the concerned Magistrate within one week of the seizure and the Court, after due notice to the concerned parties, is required to pass an appropriate order for its disposal within a period of one month.

## Valuable articles

59. The valuable articles seized by the police may be released to the person, who, in the opinion of the Court, is lawfully entitled to claim such as the complainant at whose house theft, robbery or dacoity has taken place, after preparing detailed panchnama of such articles; taking photographs of such articles and a security bond.

60. The photographs of such articles should be attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over. Wherever necessary, the Court may get the jewellery articles valued from a government approved valuer.

61. The actual production of the valuable articles during the trial should not be insisted upon and the photographs along with the panchnama should suffice for the purposes of evidence.

62. Where such articles are not handed over either to the complainant or to the person from whom such articles were seized or to its claimant, then the Court may direct that such articles be kept in a locker.



# Chapter 7

## Disposal of other concealing material

Section 60 of the NDPS Act provides that all concealment material and other seized items shall be liable to confiscation. If any property is confiscated, it will be forfeited by the department. The movable as well as immovable property will be sold through public auctioning. The sale proceeds shall be deposited in government accounts.

If any perishable or vulnerable to speedy and natural decay is seized, other than Narcotic Drug, Psychotropic Substance or Controlled Substance, application can be made to the court to pass orders for early confiscation and disposal by sale and otherwise (interim custody). If the seized items are confiscated, procedure for disposal as laid down in the Narcotic Drugs & Psychotropic Substances ( Seizure, storage, sampling and Disposal Rules, 2022 published vide notification no. GSR 899 (E) dated 23.12.2022 shall be adopted.





## Best Practices

1. Hon'ble High Court of Kolkata has formed an online portal with name as "DDMS" to monitor drug disposal in the areas under its jurisdiction. The features of the system are;
  - Online Portal developed by Calcutta High Court with the support of NIC.
  - For Monitoring the Seizure details, Certification and Disposal of Seized Narcotics Drugs and Psychotropic Substance under Section 52A NDPS Act, 1985, by the Honorable Calcutta High Court.
  - All stake holders e.g. NCB, DRI, State Excise, Police etc and all NDPS Courts have been provided with separate USER ID and Password for login in the portal.
  - Started functioning from 12th October 2020.
  - Data is being fed under three heads which are:
    1. Seizure Details-NCB Crime No, Name of the Seized NDPS, Quantity and Date of Seizure.
    2. Certification: - Name of the NDPS Court and respective Judicial Magistrate.



3. Disposal-Name of NDPS, Disposal Quantity and date of Disposal.
- After updating data for SL No. 1&2 in addition to the petition file for certification of Seized NDPS under Section 52A in the Ld. Court, The Ld. Court appoints a JM for the certification.
  - The Ld. Judicial Magistrate after verifying the same in the portal at his/her end visits the office for certification and after due certification the JM again updates the same in his/her Portal.
  - The whole status i.e. from entering the seizure details & applying for Certification to Disposal of NDPS is monitored by the Ld. High Court Calcutta through this portal.
  - Quarterly meeting is held by the Ld. High Court Calcutta for all the stake holders and being attended by the ZD, KZU on regular basis.

2. Hon'ble Orissa High Court in **State of Odisha vs. Registrar General, High Court Orissa Cuttack**<sup>3</sup> revisited the guidelines laid down by Hon'ble Supreme Court of India in Union of India vs. Mohan (Supra) and answered the practical difficulties faced by the investigation officer;

*The Petitioner has highlighted a few difficulties faced in the implementation of Section 52-A of the NDPS Act and the guidelines issued by the Supreme Court in Mohanlal (supra). Some of these issues read as under:*

- When certification of the drugs, required to be disposed of, is to be made by any Magistrate, no specified list of Magistrates, to carry out the work has been prepared till now;*
- In absence of any specified/notified Magistrates, the respective IOs are placing the inventories before the jurisdictional Special Courts, for certification under section 52A (2), finding no other alternatives;*
- The jurisdictional Special Courts have not been directed specifically to empower any of the Magistrates to carry out the job of certification as required under section 52A (2);*
- As the samples of drugs, drawn under sub-section-2 of section 52A and certified by the Magistrates, is to be treated as a primary evidence, by the learned Court, trying an offence under the Act, as stated in section 52A (4), the very process of certification might be considered as quite delicate and hence the learned Special Courts might be under a state of confusion in absence of any specified directions;"*

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<sup>3</sup> Writ Petition (Civil) No. 32580 of 2021 dated

## Important Judgments on Disposal

Sr. No.	Judgment	Summary
1	Criminal Appeal No. 652 of 2012, Union of India vs. Mohan Lal dated 28.01.2016	Hon'ble Supreme Court laid down detailed guidelines on sampling, storage and disposal of narcotic drugs. Hon'ble SC took serious view on the manner seized drugs are handled and disposed of.
2	Writ Petition (Civil) No. 32580 of 2021 State of Odisha versus Registrar General, Orissa High Court, Cuttack	Hon'ble High Court of Orissa took stock of the manner in which seized drugs were being managed in state of Orissa. Hon'ble High Court put the judiciary as well as empowered agencies on task to swiftly and efficiently handle the drug related cases and their timely disposal.
3	WP(C).No.5042 OF 2020(E M/S.SMART LOGISTICS, V. State of Kerala	Hon'ble High Court of Kerala held that the directions issued by the Apex Court in Mohanlal for disposal of seized items under the Act by the Drug Disposal Committee pertain with regard to not only narcotic drugs, psychotropic substances and controlled substances but also conveyances seized under the Act.
4	Crl.Rev.Pet No.1440/2018 Shajahan, V. Inspector of Excise etc.	Hon'ble High Court of Kerala held that No sooner the seizure of any narcotic drugs and psychotropic and controlled substances and conveyances is effected, the same shall be forwarded to the officer in charge of the nearest police station or to the officer empowered under section 53 of the Act. The officer concerned shall then approach the Magistrate with the application under section 52A (2) of the Act, which shall be allowed by the Magistrate as soon as may be required under sub section (3) of section 52A (2), as discussed by us in the body of this judgment under the heading "seizure and sampling". The sampling shall be done under supervision of the Magistrate as discussed in Paras 15 to 19 of this order.
5	Kamlesh v. State of Rajasthan, 2018 SCC OnLine Raj 1227,	The Hon'ble Court concluded its judgment by stating that the vehicle is likely to be confiscated after the trial which leads to the conditional release of the vehicle on "NDPS Act" and interim custody of the vehicle can be granted on that basis.

6	State of Punjab Vs. Makhan Chand(2004)3SCC453	Honorable Supreme Court held:- (1)Chance encounter with suspect without any prior information--Search of box and not of person--Section 50 not attracted in such situation. (2)Narcotic Drugs and Psychotropic Substances Act, 1985 --Section 52A whether empowers Central Government to lay down procedure for search of accused?--Held, "no"--It only deals with disposal of seized contraband articles.
7	Noor Aga v. State of Punjab (2008) 16 SCC 417	<i>"92. Omission on the part of the prosecution to produce evidence in this behalf must be linked with second important piece of physical evidence that the bulk quantity of heroin allegedly recovered indisputably has also not been produced in court. Respondents contended that the same had been destroyed. However, on what authority it was done is not clear. Law requires that such an authority must flow from an order passed by the Magistrate. Such an order whereupon reliance has been placed is Exhibit PJ; on a bare perusal whereof, it is apparent that at no point of time any prayer had been made for destruction of the said goods or disposal thereof otherwise. What was necessary was a certificate envisaged under Section 110(1B) of the 1962 Act.</i>
8	Union of India v. Ja-rooparam (2018) 4 SCC 334	<i>"10. Omission on the part of the prosecution to produce the bulk quantity of seized opium would create a doubt in the mind of Court on the genuineness of the samples drawn and marked as A, B, C, D, E, F from the allegedly seized contraband. However, the simple argument that the same had been destroyed, cannot be accepted as it is not clear that on what authority it was done. Law requires that such an authority must flow from an order passed by the Magistrate. On a bare perusal of the record, it is apparent that at no point of time any prayer had been made by the prosecution for destruction of the said opium or disposal thereof otherwise. The only course of action the prosecution should have resorted to is to for its disposal is to obtain an order from the competent Court of Magistrate as envisaged under Section 52A of the Act. It is explicitly made under the Act that as and when such an application is made, the Magistrate may, as soon as may be, allow the application "</i>

9	Sunderbhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283	<i>various articles are kept at the police station for a long period by not adhering to the procedure prescribed under Cr.P.C., which creates difficulties for keeping them in safe custody. Finally, the sufferers are-either the State exchequer or the citizens whose articles are kept in such custody. It is submitted that speedier procedure is required to be evolved either by the Court or under the rules for disposal of muddamal articles which are kept at various police stations as most of the police stations are flooded with seized articles. It is, therefore, submitted that directions be given so that burden of the Courts as well as at the police station can, to some extent, be reduced and that there may not be any scope for misappropriation or of replacement of valuable articles by spurious articles.</i>
10	Thana Singh vs. Central Bureau of Narcotics, (2013) 2 SCC 590	<i>24. Hence, it is imperative to define re-testing rights, if at all, as an amalgamation of the above- stated factors. Further, in light of Section 52A of the NDPS Act, which permits swift disposal of some hazardous substances, the time frame within which any application for re-testing may be permitted ought to be strictly defined. Section 52A of the NDPS Act reads as follows: -52A. Disposal of seized narcotic drugs and psychotropic substances (1) The Central Government may, having regard to the hazardous nature of any narcotic drugs or psychotropic substances, their vulnerability to theft, substitution, constraints of proper storage space or any other relevant considerations, by notification published in the Official Gazette, specify such narcotic drugs or psychotropic substances or class of narcotic drugs or class of psychotropic substances which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner as that Government may from time to time, determine after following the procedure herein- after specified.</i>

Manjit Singh v. State 214 (2014) DLT 646 (Delhi High Court)

*Thus, in view of the aforesaid circumstances it is clear that this major reason for delay in trial of criminal cases can be easily circumvented if at the time of releasing of the case property articles certain steps are taken by the courts concerned and thereby obliterating the necessity of production of the case property articles during the course of trial. In fact in the case Sunderbhai Ambalal Desai v. State of Gujarat: AIR 2003 Supreme Court 638 it was observed by Hon<sup>ble</sup> Supreme Court that courts should exercise their powers under Section 451 Cr.P.C. expeditiously and judicially regarding disposal of case property pending trial. The Court gave specific directions with respect to different kind of case property articles which should be followed by the courts.*







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