

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33139 of 2025

Arising Out of PS. Case No.-128 Year-2023 Thana- PIRO District- Bhojpur

Sanjay Kumar Singh S/O Vishwanath Singh Resident of Itwa, P.S.-
Sahpur, Dist.- Bhojpur

... .. Petitioner

Versus

1. The State of Bihar
2. Chandan Kumar, Mining Inspector, District Mining Office, Bhojpur.

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ravindra Kumar, Advocate
For the Opposite Party/s : Mr.Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 08-07-2025

Heard Mr. Ravindra Kumar, learned counsel
appearing for the petitioner and learned A.P.P. for the State.

2. This application has been preferred under section
482 of the Code of Criminal Procedure, 1973 (in short, the
'Cr.P.C.') as to quash and set aside the order dated
21.03.2025 passed by learned 8th Civil Judge, Senior
Division, Bhojpur at Ara, whereby the learned court has been
pleased to reject the prayer to release the Truck bearing Reg.
No. BR44G-6204, which was seized in connection with Piro
P.S. Case No. 128/2023, and also issued a direction to the
learned Additional Chief Judicial Magistrate – 4th, Bhojpur at
Ara, who has allowed to release the aforesaid truck in



question on 02.01.2023.

3. It is submitted by Mr. Ravindra Kumar, learned counsel for the petitioner that the vehicle in issue i.e. Truck bearing Registration No. BR44G-6204 was ordered to release by the learned trial court in favour of the petitioner, but due to certain compelling circumstances, as on fixed date, the petitioner failed to produce the indemnity bond of Rs. 16,00,000/- with two sureties, it was not released. However, on 21.03.2025, petitioner filed a fresh petition before the court concerned for release of the aforesaid vehicle, whereafter a report was called for from the investigating officer of the case, which was made available to the learned trial court through letter dated 24.02.2025, wherein it has been mentioned that petitioner is not cooperating with the investigation, but ownership of the petitioner *qua* vehicle was not disputed.

4. It is submitted that the impugned order is amounting to review of earlier order dated 02.01.2025, which is not permissible under law.

5. While concluding the argument, learned counsel



relied upon the legal report of Hon'ble Supreme Court as available through **Sunderbhai Ambalal Desai vs. State of Gujarat** as reported in **(2002)10 SCC 283** and prayed to release the aforesaid vehicle.

6. For better understanding of the factual aspect of this case, it would be apposite to reproduce the impugned order dated 21.03.2025 as passed by learned 8th Civil Judge, Senior Division, Bhojpur at Ara, which runs as under:

**"COURT OF 8th CIVIL JUDGE, SENIOR DIVISION,
BHOJPUR AT ARA
Piro P.S. Case No. 128/2023
State Vs. Unknown**

21.03.2025: A petition for release of Truck bearing number BR44G 6204 has been filed on behalf of owner Sanjay Kumar Singh by his Ld. Counsel and press today wherein he has submitted that petitioner has filed a petition to release his aforesaid vehicle, which was allowed by the Ld. Court on dated 02/01/2025 with indemnity bond of Rs. 16,00,000/- of two sureties. Further submitted that in the interest of Justice, it is necessary to release the aforesaid vehicle. The petitioner is ready to comply with all the orders of Court hence prays to release the aforesaid vehicle.

Copy of said petition has been served to Ld. S.D.P.O. and Ld. S.D.P.O. vehemently opposed the petition of petitioner and submitted that in this case the owner of said vehicle is also made as an accused by the Police but till today he has not appeared before this Court and taken bail. The report of I.O. also reveals that petitioner is not cooperating in trial. If, the vehicle got released, the petitioner will abscond with his vehicle.

Heard both sides and perused the case record along with report of I.O. dated 24/02/2025 in respect to vehicle number BR44G 6204. From perusal of case record, It appears that present case got registered by informant Chandan Kumar, Mining Inspector, District Mining Office, Bhojpur against the



owner and driver of vehicle number BR44G 6204 and 4-5 unknown riders of Maruti Swift Car bearing number JH01AE 0457 U/s 353, 323, 120 (B) of IPC and the case of informant is that on the alleged date of occurrence I.e 21/03/2023 while making raid for illegal mining of sand, a Truck bearing number BR44G 6204 was caught by the Mining Officer but the driver of aforesaid truck left his truck and fled away. When the sand loaded on truck was being measured meanwhile 4-5 unknown persons came with Swift Maruti Car bearing number JH01AE 0457 and started fighting with S.A.F officials, threaten to kill and forcefully took the truck and ran away from there.

From perusal of case record, It appears that a vehicle release petition to release of offending truck number BR44G 6204 was filed, whereon a report from Police Station and DTO was called for. After perusal of report of PS and DTO, the vehicle was ordered to be released after furnishing of indemnity bond of Rs. 16,00,000/- of two sureties on dated 02.01.2025 but till 02.01.2025 to 21.03.2025 (Since present petition) the petitioner did not turn up before this Court with indemnity bond. Now, on dated 21.03.2025 filed present petition and submitted to release the said vehicle when report of 10 dated 24.02.2025 came on record with submission that the petitioner is not cooperating (who was given notice under section 41(1)B(II).) in investigation and hence the seized truck Bearing Number BR44G 6204 is required to be kept seized.

I have gone through the documents and report of IO dated 24.02.2025 appended with case record from perusal of report, It appears that the petitioner has given notice U/s 41(1)B(II) but the petitioner Sanjay Kuma Singh who is owner of offending of vehicle number BR44G 6204 in spite of cooperating the police in investigation, neither providing the name of driver of offending truck, the name of 4-5 unknown persons who were sitting in Maruti Swift fight with S.A.F officials and forcefully took the truck and ran away. Due to non-cooperation of petitioner case is still on investigation. The act of petitioner appears negligent.

Considering all above, I am not inclined to accept indemnity bond at present hence petition dated 21.03.2025 stand rejected.

(Shailendra Kumar)
8th Civil Judge, Senior Division,
Bhojpur at Ara
Dated 21.03.2025”

7. It would be apposite to reproduce para 21 of the



legal report of Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai (supra)**, which reads as under:

“21. However, these powers are to be exercised by the Magistrate concerned. We hope and trust that the Magistrate concerned would take immediate action for seeing that powers under Section 451 CrPC are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by the Registry of the High Court concerned in seeing that the rules framed by the High Court with regard to such articles are implemented properly.”

8. Accordingly, the impugned order dated 21.03.2025 as passed by learned learned 8th Civil Judge, Senior Division, Bhojpur at Ara in connection with Piro P.S. Case No. 128 of 2023 *qua* petitioner is hereby quashed/aside.

9. The present application stands allowed with directions to the learned trial court to release the Vehicle i.e. Truck bearing Registration No. BR44G-6204 against such sureties and conditions, satisfying the learned trial court/concerned court ascertaining that the petitioner is the rightful owner. Further, the petitioner shall not sell or part with the ownership of the Vehicle till conclusion of the trial and shall furnish an undertaking to the trial court that he shall



produce the aforesaid Vehicle within one week, if so directed and/or pay the value of the Vehicle (determined according to Income Tax law on the date of its release), if so ultimately directed by the Court.

10. Let a copy of this order be sent to learned trial court/concerned court forthwith.

(Chandra Shekhar Jha, J)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.07.2025
Transmission Date	08.07.2025

