

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1207 of 2025

In
Criminal Writ Jurisdiction Case No.2492 of 2025

Arising Out of PS. Case No.-293 Year-2023 Thana- BANKA District- Banka

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Sonu Anand Rao Urkude @ Sonu Anandrao Urkude S/o Anandrao Urkude
R/o C/o Madhukar Meshram, Ho. Board LIG Qtr. No. 15, Vaishali Nagar,
Ambedkar Marg, Nagpur, Maharastra

... .. Petitioner/s

Versus

1. The State of Bihar Through through the Principal Secretary, Home Deptt.
Govt of Bihar Patna
2. The Principal Secretary, Home Deptt. Govt. of Bihar Patna
3. The District Magistrate, Distt.- Banka at Banka Bihar
4. The Superintendent of Police, Distt.- Banka Bihar
5. The Station House Officer, P.S.- Banka at Banka Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sudhanshu Kumar, Advocate
		Mr. Abhishek Kumar, Advocate
For the State	:	Mr. Anil Kumar Singh, GP-26

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 16-12-2025

The present criminal revision has been filed
seeking following relief(s):-

*"A) To quash the order dated 15.06.2025,
passed by the Ld. Chief Judicial Magistrate,
Banka at Banka, passed in connection with
293/2023 (Annexure-P/9 at Page 40).*

*B) further direct the Respondent authorities
to release of the Truck having Reg. No. CG-
04-LM-1882, which has been seized in*



connection with Banka P.S. Case No. 293/2023, on 04.05.2025."

02. Heard learned counsel for the petitioner as well as learned counsel for the State.

03. Briefly stated, the facts of the case are that the petitioner is the owner of the truck bearing Registration No. CG-04-LM-1882 which dashed 7 LT poles causing damage to the property of the Department of Electricity. Consequently, Banka P.S. Case No. 293 of 2023 has been registered under Sections 279, 427 of the Indian Penal Code and Section 139 of Electricity Act.

04. Learned counsel for the petitioner submits that the petitioner is owner of the truck being driven by his driver. The petitioner moved an application on 05.02.2024 before the learned trial court for release of the truck but the said application was dismissed by the learned trial court on 15.06.2025. The reason given for the rejection was that the driver of the truck has been absconding and he did not appear before the court. Further, the reason has been given that the investigating officer has objected to the release of the truck as the same would affect the investigation. Learned counsel further submits that the petitioner has no control over his driver, who



has not appeared before the learned trial court as it appears from the impugned order. Learned counsel further submits that the learned trial court failed to appreciate that there was no requirement of the truck in further investigation and if it is kept under seizure, it will be getting damaged everyday and the same would result in loss of the nation. Learned counsel further submits that the truck was duly insured with insurance company at the time of occurrence and if the informant was put to any loss, the petitioner would take step to indemnify the informant through the insurance claim. Learned counsel further submits that the truck is the only the source of livelihood of the petitioner and from the incident on which the FIR has lodged, no human being has suffered any casualty. If the truck is allowed to remain in judicial custody, the same would be wasted and would decay with every passing time. But these facts are not considered by the learned trial court and hence, the impugned order is completely illegal and needs to be set aside.

05. Learned counsel appearing on behalf of the State-respondents opposes the submission made on behalf of the petitioner. Learned counsel submits that the investigating officer has objected the release of the truck and the driver has not appeared till date before the court concerned.



06. Perused the record.

07. Having regard to the submission made on behalf of the parties and considering the impugned order, I find that merely on objection being raised by the prosecution, the truck has not been released. The guidelines of Hon'ble Supreme Court in this regard are discussed in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat***, reported in ***(2002)10 SCC 283***. The Hon'ble Supreme Court issued certain guidelines, which read as under:

“In our view, the powers under Section 451, Cr PC should be exercised expeditiously and judiciously. It would serve various purposes, namely:-

- 1. Owner of the article would not suffer because of its remaining unused or by its misappropriation;*
- 2. Court or the police would not be required to keep the article in safe custody;*
- 3. If the proper panchnama before handing over possession of article is prepared, that can be used in evidence instead of its production before the Court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and*
- 4. This jurisdiction of the Court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.”*

08. While dealing with the seized vehicles from time to time by the police either in commission of various offences or abandoned vehicles or vehicles which are recovered during investigation of complaint of thefts, the Hon'ble Supreme Court



in the case of ***Sunderbhai Ambalal Desai*** (supra) further observed as under:-

“In our view, whatever be the situation, it is of no use to keep such-seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If Insurance company fails to take possession, the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared.”

09. But the learned trial court has not considered the guidelines. Further, the reasoning given by the learned trial court does not appear to be satisfactory. The vehicle could not be kept in custody for the reason that the driver did not appear as penalizing the owner of the truck for the act of his driver is simply wrong. There is no vicarious liability in such type of cases. Therefore, in the light of aforesaid discussion, the



impugned order dated 15.06.2025 is set aside and the truck of the petitioner bearing Registration No. CG-04-LM-1882 is directed to be released subject to the satisfaction and the conditions to be imposed by the learned trial court, seized in connection with Banka P.S. Case No. 293 of 2023 on receipt/production of the copy of this order.

10. Accordingly, the present petition stands allowed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.12.2025
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