

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2256 of 2025

Arising Out of PS. Case No.-267 Year-2023 Thana- MOHAMMADPUR District- Gopalganj

Sanjay Ray S/O Sri Sukul Rai R/O Village- Masudpur, P.S- Shahpur,
Distt.- Patna.

... .. Petitioner

Versus

1. The State of Bihar the Chief Secretary, Government of Bihar, Patna. Bihar
2. The Excise Commissioner, Excise Department, Government of Bihar, Patna. Bihar
3. The District Magistrate, Gopalganj. Bihar
4. The S.H.O of Muhammadpur Police Station, District Gopalganj. Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Jharkhandi Upadhyay, Advocate
For the Opposite Party/s : Mr.Mritunjay Kumar Nirala, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 26-06-2025

Heard learned counsel 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 (in short, the 'Cr.P.C.') for release of vehicle in favour of petitioner bearing Registration No. BR01GH1315, Engine No. TBJIH74135, Chassis No. MAIZNZTBKJIH-68366, which was looted away from the petitioner by some dacoits on 26.10.2023 and same was recovered in Mahmudpur P.S. Case No. 26/2023 on 22.11.2023 in the district of Gopalganj.



3. The brief case of the prosecution is that the aforesaid looted pickup van was used by the named accused persons, which was intercepted by Mahmudpur Police Station under the Excise Act. The accused persons also confessed that the vehicle in question was the looted vehicle.

4. Learned counsel appearing for the petitioner submitted that in this case, the petitioner had informed the Sonapur Police Station about commission of loot of his pickup goods carrying vehicle bearing Reg. No. BR01GH1315, which was loaded with Maize seed within the jurisdiction of Rajapakar Police Station, where the driver (petitioner) of the vehicle was thrown away from the aforesaid vehicle in the territorial jurisdiction of Sonapur Police Station, for which a formal FIR was lodged by the petitioner at Sonapur Police Station, but the same was forwarded to the Rajapakar Police Station through Dr. No. 2256/2023 dated 26.10.2023. It is submitted that after forwarding the application of the petitioner to Rajapakar P.S., now a separate FIR was registered in that matter.

5. It is further alleged that since the vehicle was



seized under the Excise Act, a requisition for its confiscation has also been made before the District Magistrate, Gopalganj, where petitioner has also made an application for its release. Still, the concerned authority has not confiscated the vehicle in question.

6. 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.

7. Learned A.P.P. for the State, while opposing the quashing petition, submitted that illicit liquors were recovered from the vehicle in question, which were being illegally transported to another place.

8. Having heard learned counsel for the parties and after perusal of the records, it appears from the report of the concerned S.H.O., Sonapur Police Station that petitioner is the registered owner of the vehicle in question, where he has no concern with the goods loaded in the vehicle in question.

9. 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.”

10. Accordingly, the seized Pick Up Van bearing Registration No. BR01GH1315, Engine No. TBJIH74135, Chassis No. MAIZNZTBKJIH-68366 be released in favour of petitioner on furnishing proper sureties to the satisfaction of the learned Additional Sessions Judge-cum-Spl. Judge, Excise Act, Gopalganj in connection with Mahmudpur P.S. Case No. 267 of 2023.

11. In view of the aforesaid, the present application stands allowed with directions to the learned trial court to release the Vehicle in question against such sureties and conditions, satisfying the learned trial court/court concerned to petitioner/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 before learned trial court that he shall produce the Vehicle within one week of being 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.

12. 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	28.06.2025
Transmission Date	28.06.2025

