

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.875 of 2025

Arising Out of PS. Case No.-77 Year-2022 Thana- GAYA MUFASIL District- Gaya

Md. Sartaj Khan S/O Late Neyaj Khan Resident of Village- Basant Simla,
P.S- Salaiya, District- Aurangabad.

... .. Petitioner

Versus

1. The State of Bihar
2. Lata Devi W/O P. Ranjan R/O Village- Safdarganj, Development, Area Hauj Khas, New Delhi Swasevika Gau Gyan Foundation.

... .. Opposite Party

Appearance :

For the Petitioner/s : Ms.Rabia Gulnaz, Advocate
For the Opposite Party/s : Mr.Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 17-03-2025

Heard Ms. Rabia Gulnaz, learned counsel appearing for the petitioner and learned A.P.P. for the State.

2. The present application has been preferred for quashing the order dated 24.10.2024 passed in Muffassil P.S. Case No. 77 of 2022, whereby and whereunder learned Chief Judicial Magistrate, Gaya has rejected the petition filed by the petitioner for release of the vehicle bearing Registration No. BR02GA-7146, which was seized by the police.

3. The brief facts of this case suggest that the informant upon receiving of secret information that a truck bearing Registration No. BR02GA-7146, which was loaded with animal, was going to West Bengal via Gaya District, upon



which she reached Ghughri Tad bypass and intercepted the said truck, from where thirty four cattles were recovered, which was illegally transporting from the aforesaid vehicle.

4. On the basis of aforesaid information, the present F.I.R. being Muffassil P.S. Case No. 77 of 2022 was registered for the offences punishable under Sections 279, 295(A), 414, 379, 429, 120(B) of the Indian Penal Code and Section 11(a) of the Animal Cruelty Act, 1960.

5. The vehicle in issue, as aforesaid, was claimed by petitioner being rightful owner.

6. Learned counsel appearing for the petitioner submitted that petitioner is not named in the present F.I.R. He was implicated in this case only because he is the registered owner of the truck in question. Learned counsel submitted that petitioner has no concern with the recovered cattle, which were being illegally transported through the Truck.

7. Learned counsel further submitted that petitioner undertakes that as and when the learned trial court/concerned court would direct to produce the vehicle in question, the



same shall be produced before the concerned court.

8. 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.

9. Learned A.P.P. for the State, while opposing the quashing petition, submitted that 34 cattles were recovered from the truck in question, which were being illegally transported to West Bengal.

10. Having heard learned counsel for the parties and after perusal of the records, it appears from the report of the concerned D.T.O. as well as police report that petitioner is the registered owner of the truck in question, where he has not named in the F.I.R. as also he has no concern with the alleged cattle, which were loaded in the truck.

11. 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.”

12. Accordingly, the impugned order dated 24.10.2024 passed by learned Chief Judicial Magistrate, Gaya in connection with Muffassil P.S. Case No. 77 of 2022, *qua* petitioner is hereby quashed/aside.

13. 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 to the trial court that he shall surrender 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.



14. 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	18.03.2025
Transmission Date	18.03.2025

