



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 269 OF 2025

Kundalik Dattaro Nagare

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. Vijay Wakale, Advocate h/f Mr. S.G. Ghongade, Advocate for the applicant
Ms V.S. Chaudhari, A.P.P. for the respondent - State
....

CORAM : ABHAY J. MANTRI, J.
DATE : 04th OCTOBER, 2025

ORAL JUDGMENT:

1. The applicant has preferred this revision application challenging the order dated 08th August, 2025, passed by the learned Additional Sessions Judge, Hingoli, in Criminal Misc. Application No. 48 of 2025, whereby the application was rejected for the return/release of the vehicle, i.e. tipper truck, bearing registration no. MH-38-X-2760.

2. Heard learned counsel for the applicant and learned A.P.P. for the State. Perused the application, impugned order, and record.

3. It is not in dispute that the applicant is the owner of the tipper truck bearing no. MH-38-X-2760. Accordingly, he has produced a copy of the R.C. Book of the said vehicle on record.

4. On perusal of the impugned order, it appears that the learned Additional Sessions Judge rejected the application as the F.I.R. discloses that

the offences are punishable under the Maharashtra Land Revenue Code (for short- '*MLR Code*') and also Mines and Minerals are involved, and therefore, refused to release the vehicle. No doubt, as per Section 169 of the MLR Code, the State Government has precedence over the proceeding, in respect of seizure of the tipper truck, the proceeding of which is pending before the S.D.O., Hingoli, and accordingly, notice has been issued. The Collector/S.D.O. has to determine whether as per Section 48 of the MLR Code the applicant is liable to pay the penalty or not, and therefore, in my view rejection of the application only on the basis of issuance of notice to the applicant to recover the fund amount, is contrary to the settled position of law as laid down by the Apex Court in *Sunderbhai Ambalal Desai Vs. State of Gujarat, (2002) 10 SCC 283*.

5. Apart from that, if the applicant is found guilty, then the State Government can direct the recovery of the amount from him in accordance with provisions of the law, and therefore, in my view, it would not be proper to detain the vehicle at the police station, as such, it would be proper to release the same. If the said vehicle is kept at the police station for a long time, then certainly the vehicle will become junk day by day, and also it is of no use to keep such a vehicle at the police station for a long period. But it is for the Judge to pass the appropriate orders immediately to furnish an appropriate bond towards security as well as a guaranty for the return of such vehicle, if required at any point in time.

6. Thus, the order passed by the learned Additional Sessions Judge appears cryptic. The learned Additional Sessions Judge has not considered the provisions of law in their proper perspective and erred in rejecting the application. Therefore, in my view, interference requires the revisional jurisdiction to release the vehicle to the applicant on certain terms and conditions. If the vehicle is released, it would not cause prejudice to the State. On the contrary, if the vehicle remained at the police station, it would certainly become junk day by day, and it would be of no use to the applicant.

7. Consequently, the impugned order passed by the learned Additional Sessions Judge is set aside, and the application is allowed with the following terms and conditions.

A] The trial court to release the vehicle in question on the interim custody on supurtnama (as per its valuation) after preparing necessary panchanama and taking a video and photographs of the tipper truck and after obtaining all information/documents necessary for identification of the vehicle, which shall be authenticated by the Investigating Officer, owner of the tipper truck and the accused by signing the same. Further, the applicant shall not change the nature/identity of the vehicle nor 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 tipper truck (determined by the S.D.O. in accordance with law on the date of its release), if so ultimately directed by the court.

b] Accordingly, inform the learned Additional Sessions Judge.

(ABHAY J. MANTRI, J.)

SSD