



** Correction has been carried out in view of speaking to the minutes order dated 05.05.2026*

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1317 OF 2025

ASARAM SURESH MALI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Mr. Chudiwal Niraj Pradeep

APP for Respondents/State : Mr. R. K. Ingole

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CORAM : MEHROZ K. PATHAN, J.

DATE : 17th APRIL 2026

PER COURT :

1. The Petitioner has filed the present petition, thereby challenging the order dated 27.02.2025 passed by the learned Judicial Magistrate First Class, Georai, Court No.2, rejecting the application filed by the Petitioner for release of the vehicle Tractor bearing its registration no. MH-23-BH-0106 along with trolley bearing Chassis No. NJK 33/2024. Being aggrieved by the order dated 27.02.2025, the Petitioner filed a Revision before the Sessions Court, Beed, being Criminal Revision No. 20/2025. The learned Sessions Judge, Beed, vide order dated 17.06.2025, rejected the Revision on the ground that the Petitioner's vehicle had earlier been involved in Crime No. 486/2023, which was also an offence under Section 379 of the Indian Penal Code, and the said vehicle had been

released on the condition that it shall not be used for committing any offence. The Petitioner's vehicle was subsequently found to have been involved in another offence of sand theft, being the present Crime No. 56/2025 registered with Georai Police Station, and hence the Revision Application came to be rejected.

2. The learned Counsel for the Petitioner, at the outset, submits that the Hon'ble Supreme Court in **Sunderbhai Ambalal Desai & Ors. v. State of Gujarat reported in (2002) 10 SCC 283**, was pleased to hold that a vehicle shall be released in favour of its owner upon an undertaking given by the Petitioner that he is ready to produce the vehicle as and when directed by the Trial Court. Vehicles may get rusted if left idle in the police station, and instead should be handed over to the owner upon such undertaking. The Petitioner is the owner of the vehicle and is ready to give an undertaking to produce the vehicle whenever directed by the Trial Court. The learned Counsel further relies on the judgment of the Hon'ble Supreme Court in **Bishwajit Dey v. State of Assam reported in (2025) 3 SCC 241**, wherein the Hon'ble Court laid down guidelines for release of vehicles in favour of their owners. The Petitioner is also ready to deposit an amount of Rs.1,00,000 to show his bona fides and to assure that the vehicle will not be used in future for identical offences of sand theft, and he is ready to give an undertaking to that effect. Hence, the vehicle may be released in favour of the Petitioner.

3. As against this, the learned APP strongly opposes the

application on the ground that the Petitioner's vehicle was earlier found to be involved in identical Crime No. 486/2023 under Section 379 of the Indian Penal Code. The Petitioner is the owner of the said vehicle, and there is every likelihood that he may again use the same vehicle for commission of identical offences. Hence, the application was rightly rejected by the learned trial Court, and the Revision was also rejected by the learned Sessions Court. The petition may therefore be rejected.

4. I have gone through the investigation papers made available by the learned APP, wherein the Applicant is shown as an accused in the said crime. Another offence was earlier registered as Crime No. 486/2023 under Section 379 of the Indian Penal Code against the same vehicle.

. The Hon'ble Supreme Court in *Sunderbhai Ambalal Desai* (cited supra) was pleased to hold as under:

17. 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.

. Taking into consideration the bona fides shown by the Petitioner in depositing an amount of Rs.1,00,000 before the Trial Court as security, and the undertaking that the Petitioner shall not misuse the vehicle in any crime of identical nature or any other offence, I am inclined to pass the following order :

ORDER

- (i) The Criminal Writ Petition is allowed.
- (ii) The impugned orders dated 27.02.2025 passed by the learned Judicial Magistrate First Class, Georai and the order dated 17.06.2025 passed by the learned Sessions Court Beed in Criminal Revision No. 20/2025, are hereby quashed and set aside.
- (iii) The vehicle (tractor) bearing registration no. MH-23-BH-0106 shall be released in favour of the Petitioner subject to the condition that the Petitioner shall deposit an amount of Rs. 1 Lakh before the trial Court within a period of two weeks from today.
- (iv) The Petitioner shall produce the vehicle before the concerned police station once every two months, on the first day of the month, for inspection starting from 1st of May, 2026. The P.S.O. shall maintain station diary entry about visit of the vehicle as directed by this Court.
- (v) The Petitioner shall give an undertaking to the trial Court to produce the vehicle as and when so directed by the trial Court.
- (vi) A single violation of any of the conditions imposed by this Court or if the vehicle again used for commission of any offence, the same shall entitle the prosecution to seek confiscation of the vehicle by making an appropriate application before the trial Court.
- (vii) The Criminal Writ Petition is disposed of in the aforesaid terms.

MEHROZ K. PATHAN
JUDGE