



-1-

**IN THE COURT OF SESSIONS JUDGE, BHOJPUR
DISTRICT - BHOJPUR (ARA), BIHAR
[CRIMINAL REVISION NO. - 35/2026]**

**(arising out of Order dated 10.03.2026 passed by Ld.
A.C.J.M. - VIth, Bhojpur at Ara in Sahar P.S. Case FIR No.
267/2025.)**

IN THE MATTER OF :-

Status of the parties
before this Court
Revisionist

Status of the parties
before the Trial Court
Accused

Deepak Kumar

S/o - Mannu Singh

R/o - Vill. - Chauriya, P.S. - Sahar, Distt. - Bhojpur.

..... **Petitioner**

-versus-

The State of Bihar

..... **Opposite Party**

Counsel for the Petitioner :- Shri Dinesh Tiwary, Ld. Advocate

Counsel for the State :- Shri Rana Pratap Singh, Ld. P.P.

Date of Order :- 04.04.2026

**Present : Purushottam Mishra,
Sessions Judge,
Bhojpur.**



04.04.2026

ORDER

1. The present revision has been preferred under Sections 303(2), 317(2) & 3(5) of B.N.S. and 56(2) & 56(1) of Bihar Minerals Act impugning the Order dated 10.03.2026 (herein after called "impugned Order") in which Ld. A.C.J.M. - VIth, Bhojpur at Ara rejected the release petition of the petitioner related to seized Swaraj Tractor bearing Registration No. BR03GB2994, Chassis No. MBNAN48 ADLTP 11655, Engine No. 39-1355/SBP 21498 and Model No. 735 X 1 of the petitioner.

2. The case of the revisionist is that on 26.12.2025 Mining Officer, seized Swaraj Tractor bearing Registration No. BR03GB2994, Chassis No. MBNAN48 ADLTP 11655, Engine No. 391-355/SBP 21498 and Model No. 735 X 1 while the same was found loaded with sand mined illegally. It was found that total 100 CFT sand was loaded on said Swaraj Tractor. Police in Sahar P.S. on basis of information submitted by the Mining Officer, registered Case FIR No. 267/2025 under Sections 303(2), 317(2) & 3(5) of B.N.S. and 56(2) & 56(1) of Bihar Minerals Act (Concession, Prevention of illegal Mining,



-3-

Transportation & Storage) Rules 2024, against the revisionist who is the owner of the Swaraj Tractor.

3. Feeling aggrieved by the aforesaid impugned Order, the present revision petition has been preferred by the Revisionist on the grounds as set out in petition. It is further the case of the revisionist that an application was filed on his behalf before Ld. Trial Court seeking directions for release of the seized Swaraj Tractor. But the Ld. A.C.J.M. - VIth, Bhojpur at Ara (Trial Court) declined the prayer of the revisionist on the ground that all the Sections mentioned in the FIR are non-bailable in nature and investigation of this case is still pending and charge-sheet has not been submitted. Hence, this revision petition was filed by the revisionist. Ld. Trial Court has not relied upon the judgment of **Hon'ble Supreme Court in Sunderbhai Ambalal Desai vs. State of Gujarat** and rejected the release petition of the petitioner. So, impugned order dated 10.03.2026 to be fit set aside and direction regarding release of Swaraj Tractor may be given.

4. Ld. P.P. stated that said seized Swaraj Tractor was recovered with loaded illegal sand and investigation of this case is still pending, hence, Ld. Magistrate rightly dismissed



-4-

application for release of above described seized vehicle.

5. In reference to the instant petition, it is apt to note that by virtue of Section 21 (4) of Mines & Minerals (Development & Regulation) Act, 1957 (hereinafter referred to as "the Act"), any vehicle etc., found transporting illegally any minerals shall be liable to be seized by an officer or authority specially empowered in this behalf. Further, sub-Section (5) of said section empowers court competent to take cognizance of the offence, to confiscate such vehicle. Whereas, Rule 56 (2) of Bihar Minerals (Concession, Prevention of illegal mining, Transportation & Storage) Rules 2019 (amended in the year 2024), (hereinafter referred to as Rules) framed under the Act, provide that in either before or after prosecution, the offences committed under the Act can be compounded by authorized Mining Officer of the District. Proviso appended to sub rule (3) further provides that if immediately after the seizure, the cost of mineral alongwith compound fee is not deposited in accordance with sub rule (2), the seizing officer shall make a report of such seizure within 24 hours to the Collector. Sub Rule (4) of Rule 56 of the Rules further empower the Collector to confiscate the vehicle etc., used in commission of offence under the Act or Rules if within a



-5-

period of one month from the date of commission of such offence, the offender fails to pay the compounding fee and cost of mineral/penalty amount. Further Rule 7 of the Rules provides that before confiscating any property so seized the Collector shall issue notice in writing to the person from whom the property is seized and shall afford him an opportunity to submit representation against proposed confiscation. The confiscation order passed by the Collector is also appealable under Rule 56A of the Rules.

6. There is no legal bar on the Trial Court to release the vehicle either under the Act or Rules. The vehicle in question can be released temporarily to its rightful owner. Further, perusal of trial court record reveals that no complaint was so far filed u/s 22 of the Act by the authorized mining officer for prosecuting the revisionists for alleged contravention of the provisions of the Act and Rules. Therefore, offences punishable under B.N.S., only remain to be considered at this stage.

8. It needs to be considered further that that power of the Collector to confiscate the vehicle can be exercised only if the offence is not compounded by the offender under sub-rule (2)



-6-

of the Rules. Law does not compel any such offender to compound the offence and every accused is legally entitled to contest the prosecution initiated against him. Further the confiscation order, passed if any, is appealable under Rule 56A of the Rules. No useful purpose will be served by retaining the vehicle till disposal of confiscation proceedings or conclusion of trial or appeal thereof.

9. In view of the above noted facts and relevant legal provisions, Ld. Trial Court was not justified in refusing the release of the Swaraj Tractor temporarily to the revisionist/owner of the Swaraj Tractor. In this reference, it is apt to note following observations recorded by Hon'ble Supreme Court in **Sunderbha Ambalal Desai vs State Of Gujarat 2002 (10) SCC 283 -**

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



-7-

vehicles.

10. For disposing off this revision petition I am referring herein Section 451 of Cr.P.C. (Corresponding to Section 501 of Bharaitya Nagarik Suraksha Sanhit 2023):- Order for custody and disposal of property pending trial in certain cases - When any property is produced before any Criminal Court during any inquiry or trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of. Explanation- for the purposes of this section, "property" includes -

- (a) property of any kind or document which is produced before the Court or which is in its custody,
- (b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence."

11. It is relevant to refer to celebrated judgment of **Sunderbhai Ambalal Desai Vs. State of Gujarat, [{2002}]**



-8-

10 SCC 282] which is a leading case on the subject and this court in this case still holding the field. In this case, Hon'ble Supreme Court has held " In our view, whatever be the situation, it is 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."It is also relevant to refer in **Bhola Singh @ Ayush Singh Vs. The State of Bihar, Criminal Misc No. 40912/2016** has held that: "..... As far as vehicle is concerned, there was no reason to reject the application of the petitioner for its release to interim custody of the applicant claiming to be bona fide owner of the vehicle subject to the certain conditions to ensure production of the vehicle to the court as and when required during pendency of the trial or confiscation proceeding" explained the extent and scope of jurisdiction under Section 451 Cr.P.C. and how it should be exercised. "Section 451 Cr.P.C. clearly empowers the court to pass appropriate orders with regard to such property such as :-

(1) for the proper custody pending conclusion of the



inquiry or trial;

(2) to order it to be sold or otherwise disposed of, after recording such evidence as it thinks necessary;

(3) if the property is subject to speedy and natural decay, to dispose of the same;

12. In our view, the powers under Section 451 Cr.P.C. should be exercised expeditiously and judiciously. It would serve various purpose, namely :-

(i) owner of the article would not suffer because of its remaining unused or by its misappropriation;

(ii) court or the police would not be required to keep the article in safe custody;

(iii) if the proper panchanama before handing over possession of the 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

(iv) 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.



-10-

13. To avoid such a situation, in our view, powers under Section 451 Cr.P.C. should be exercised promptly and at the earliest.

14. On the basis of observations and law as recorded hereinbefore, while allowing instant revision petition, S.H.O. of P.S. Sahar/Mining Officer concerned is hereby directed to release the Swaraj Tractor bearing Registration No. BR03GB2994, Chassis No. MBNAN48 ADLTP 11655, Engine No. 391-355/SBP 21498 and Model No. 735 X 1, in favour of the revisionist/rightful owner of the Swaraj Tractor on his furnishing indemnity bond in the sum of Rs. 1,00,000/- (Rs. One Lakh Only) with two sureties in like amount each to the satisfaction of Ld. Trial Court concerned. On furnishing such indemnity bond Ld. Trial Court shall issue release order of the Swaraj Tractor and shall direct the SHO/mining officer concerned to get clicked photographs of the Swaraj Tractor from different angles, which photographs shall be submitted in the trial. Said photographs shall serve the purpose of proving existence of such Swaraj Tractor during the trial and shall substitute its production before the Court. After the release of the Swaraj Tractor, the revisionist shall not temper



-11-

with its appearance or bring material change in it. they shall also be bound to produce the Swaraj Tractor before police or Court as and when directed to do so.

15. It is made clear that release of the Swaraj Tractor to the revisionist under this Order shall not bar or affect any confiscation proceedings initiated by the Collector in instant case. The trucks shall be subject to its re-seizure subject to final confiscation order and/or final Order passed by Ld. Trial Court under Section 21 (5) of the Act.

16. Instant revision petition, i.e., **Cr. Rev. No. 35 of 2026** is accordingly **allowed** with above observations.

17. Copy of this Order be sent to Ld. Trial Court/ S.H.O. P.S. Sahar.

18. File related to revision petition be consigned to the Record Room.

Dictated and corrected by me.


(Purushottam Mishra)
Sessions Judge, Bhojpur
04.04.2026