



GJJM010006602026  CRMA S/295/2026	 सत्यमेव जयते	<b>Filed on</b>	03.03.2026
		<b>Registered on</b>	03.03.2026
		<b>Decided on</b>	18.03.2026
		<b>Duration</b>	00Y 00M 15D
		<b>Exh.</b>	8

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE,  
JAMNAGAR**

**CRIMINAL MISCELLANEOUS APPLICATION No.295 OF 2026**

<b>Bharatbhai Bhurabhai Sarasiya</b> Aged: 40 Years, R/o. Nava Mokhana, Taluka Jamnagar District Jamnagar.	.....	Applicant.
Versus		
<b>The Geologist</b> Department of Geology and Mining, Lal Bungalow Circle, Opposite District Court, Taluka & District Jamnagar.	.....	Opponent.

**Appearance:**

Learned Advocate Mr.A.A.Majothi for the applicant.

Learned P.P. Mr.J.K.Bhanderi for the opponent.

**APPLICATION UNDER SECTION 497 and 503 OF  
BHARTIYA NAGARIK SURAKSHA SANHITA, 2023.**

**J U D G M E N T**

- (1) The present application is preferred by applicant with a prayer to grant interim custody of Truck bearing Registration No.GJ-37-V-9194 upon production of bank guarantee amounting to fine amount.
- (2) Learned advocate Mr.A.A.Majothi appeared for the applicant and submitted that on 13.02.2026, Truck bearing Registration No.GJ-37-V-9194 was lying vacant at Dhrangda Village, at that time, Royalty Inspector Mr.Nikhil Potayath came alongwith various persons and broke open the glasses of Truck and tried to take it away. It is submitted that the truck was later on, taken away by Royalty Inspector and was handed over to Panch "A" Division Police Station and presently, the truck is lying in the police station. It is submitted that the applicant received a notice dated 13.02.2026 which was replied by the applicant wherein it was stated that the applicant is willing to produce bank guarantee for taking interim custody of the Truck. It is submitted that the Geologist, Mines and Minerals, Jamnagar had issued show-cause-notice dated 18.02.2026 wherein, it is contended that the applicant is required to pay Rs.3,57,023/- and upon deposit of said amount, the offence may be compounded. It is submitted by learned advocate that

he is willing to produce bank guarantee of Rs.3,57,023/-, however, the Officers of Mines and Minerals Department are seeking bank guarantee of Rs.35,00,000/- i.e. the amount of Truck. It is lastly submitted that the applicant is ready and willing to abide any conditions that may be imposed by this Hon'ble Court. Hence, prayed to allow this application.

- (3) The learned Public Prosecutor Mr.J.K.Bhanderi appeared for the opponent and submitted a reply vide Exh.4 wherein, it is contended that the applicant is required to deposit Rs.3,52,101.03/- for breach of Gujarat Mineral (Prevention of Illegal Mining, Transportation and Storage), Rules, 2017 and Rs.4,921.97/- for the damage cost. It is further contended that as per the above Rule, more particularly Rule-12(2)(a)(i)(ii), the applicant can get the vehicle release by depositing the bank guarantee amounting to written down value of vehicle in Form-J. The learned Public Prosecutor has also relied upon the judgment of Hon'ble Gujarat High Court in case of ***Bipinbhai Baldevbhai Rajgor vs. State of Gujarat & Ors.*** ordered dated 18.04.2024 passed in R/Special Civil Application No.4707 of 2024.
- (4) Heard Ld. Advocates for the Parties. Perused the application, reply of opponent and documents produced on record.
- (5) It appears that the Department had issued notice under Rule 12(2)(a) on 13.02.2026 to applicant and thereby, it was

informed to applicant that the Truck bearing Registration No.GJ-37-V-9194 has been seized by the Department. It appears that the said notice was replied by the applicant on 16.02.2026 where, in subject the applicant disagreed to pay the fine amount, however, perusing the contents of the reply, it appears that applicant had shown his willingness to produce bank guarantee for the interim custody of the Truck. It would be relevant to refer the show-cause-notice dated 18.02.2026 wherein, the Geologist had specifically stated that as the vehicle is involved in unauthorized transportation of Minerals, he shall deposit Rs.3,57,023/- and upon deposit of the amount, the offence can be compounded. The learned advocate for the applicant has filed an affidavit vide Exh.7 wherein, it is declared by applicant that the applicant is ready and willing to deposit the bank guarantee for the amount of fine of Rs.3,52,101.03 and for the said purpose, he visited the Mines and Minerals Department on 12.03.2026, however, the concerned Officer had asked for the bank guarantee of Rs.35,00,000/- i.e. the amount of vehicle.

At this juncture, it would be relevant to refer the Rule 12 which as under;

"12. Seizure of property liable to confiscation.-

(1) Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or other thing (hereinafter referred to as "property") shall be liable

to be seized by the Government in the manner specified in sub-rule (2) of this rule.

(2) [Every Authorised Officer seizing any property under these rules shall photograph the property and place on such property a mark in such manner as may be determined, indicating that the same has been so seized and shall:

(a) issue a notice in Form J informing the person from whom the property is seized of the property so seized, and release the property so seized upon receipt of a bank guarantee for an amount equal to-

(i) the penalty payable under rule 21, in case of transportation of, or causing to transport, mineral without lawful authority; or

(ii) the written down value of the property, in case of illegal mining or illegal storage of mineral:

Provided that, release under clause (a) of sub-rule (2) shall be without prejudice to and shall not in any manner affect the conduct of investigations and other actions contemplated under clause (b) of sub-rule (2).

Explanation: Under these rules property is seized as a security against the amount of penalty due to the Government and to ensure the presence of the alleged offender before the Government if the case is at notice stage.]

(b) [conduct,

(i) an investigation and if he is satisfied that a compoundable offence has been committed in respect of the property, he may, subject to receipt of a compounding application, order payment of such amount for compounding the offence as may be deemed appropriate, which amount, if not paid within thirty days, may be recovered by invocation of the bank guarantee furnished under clause (a) of sub-rule (2); or (ii) a preliminary investigation, and if compounding is not permissible under rule 22 or if he is satisfied that the offence committed in respect of the property is not compoundable, upon the expiry of forty-five days from the date of seizure or upon completion of the investigation, whichever is earlier, shall approach by way of making a written complaint, before the Court of Sessions.

Explanation: Any offence under these rules shall be tried by the Court of Sessions in accordance with the Procedure laid down under the Code of Criminal Procedure, 1973;]

(3) (Where the court is satisfied that an offence has been committed and is punishable under these rules, the court may order for,-

(a) penalty in accordance with rule 21,  
 (b) confiscation of the property under sub-section (4A) of section 21 of the Act, where the property seized under sub-rule (1) above is produced before a court under sub-clause (ii) of clause (b) of sub-rule (2).)

(4) No order for confiscating any property shall be made under sub-rule (3) unless the person from whom the property seized is given:

(a) an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds for confiscation; and;

(b) a reasonable opportunity of being heard in the matter.

(5) [\*\*\*]

(6) [The bank guarantee issued under clause (a) of sub-rule (2) shall be valid for an initial period of one year and shall be renewed from time to time until payment for compounding the offence under sub-clause (i) of clause (b) of sub-rule (2) or until payment of the penalty determined under sub-rule (3), as applicable, is made:

Provided that, if upon a determination under sub-rule (3), a penalty for an amount exceeding the amount of the bank guarantee is levied and the penalty amount is not paid, then the excess penalty amount may be recovered in the same manner as if it were an arrear of land revenue.]

(7) [The property seized under this rule shall be kept in the custody of the Authorised Officer, any other third party, nearest police station or Government premises until:

(a) a bank guarantee is provided pursuant to clause (a) of sub-rule (2)

(b) payment of the amount as determined under sub-clause (i) of clause (b) of sub-rule (2) for compounding the offence is made or,

(c) payment of penalty as determined under sub-rule (3) is made: or

(d) an order of the Court directing its disposal is received by the Authorized Officer."

(6) The Department has heavily relied upon Rule-12(2)(a)(ii) and submitted that the value of property written down in Form-J is required to be taken as bank guarantee, however, in this regard,

it would be relevant to observe that Rule-12(2)(a)(ii) is with respect to case where illegal Mining or Illegal storage of Minerals is concerned, whereas in present case, the case is of transportation of Mineral in illegal manner and hence, Rule-12(2)(a)(ii) would not be made applicable to this case.

At the same time, perusing Rule-12(2)(a)(i), the bank guarantee amounting to the penalty payable under Rule-21 is applicable in case of transportation of Mineral. Perusing above Rule, the department is at error in seeking bank guarantee of Rs.35 lacs i.e. the value of truck. Moreover, perusing the notices issued by the Department, it appears that the Department has asked for Rs.3,57,023/- for compound the offence. Therefore, the stand of department that the applicant is required to deposit bank guarantee of Rs.35,00,000/- is unjust and improper. Upon perusing the order of Hon'ble Gujarat High Court in case of *Bipinbhai Baldevbhai Rajgor (Supra)*, no where it is directed by the Hon'ble High Court that the vehicle involved in illegal transportation of minerals shall be released on deposit of the bank guarantee amounting to value of vehicle. Therefore, this judgment would be of no help to department. Hence, without discussing anything more, I deem it fit to pass following order.

**::- O R D E R :-**

- (1) The present application is hereby **allowed**.
- (2) The Mines and Minerals Department is directed to handover

the interim custody of Truck bearing Registration No.GJ-37-V-9194 to the applicant on the following conditions;

**CONDITIONS :-**

- a) The applicant shall furnish bank guarantee of Rs.3,57,023/- to the Department for period of one year.
- b) The applicant shall not transfer without consent of the concerned court.
- c) The colour photograph of the said truck be kept with department;
- d) The said Truck shall be made available as and when so directed by the concerned court;
- e) The applicant shall not utilize the truck in any illegal activities.

Pronounced and signed today in the open Court on this **18<sup>th</sup> day of March – 2026.**

Place	:	JAMNAGAR	<b>Robin P. Mogera</b>
Date	:	18-03-2026	Additional Sessions Judge, Jamnagar.
			Code No. GJ01539