

C.M.A. 117/2026

19.05.2025

This order arises out of the petition U/Sec. 503 of BNSS arising out of G.R. Case No. **929/2026** filed by the petitioner namely **Dolananda Padhan** with a prayer to release one seized Vehicle i.e. **BHARAT BENZ 2826 C** bearing Registration No. **OD23U7819** having Chassis No. **MEC841KBKSP190235** and Engine No. **926956D0196826** in his favour. Heard. It is submitted by the learned counsel for the petitioner that the petitioner is the registered owner of Vehicle. The Vehicle has been seized in connection with G.R. Case No. **929/2026** (arising out of Rengali P.S Case No. **80/2026,U/s 303(2)/3(5) of BNS, r.w. Sec. 5 of OMMCR Act.** The seized Vehicle is kept at the premises of Rengali PS, Samablpur, and the said Vehicle is also exposed to sun, rain and dust. Under such circumstances if those will remain there the Vehicle may be damaged and the value of the Vehicle may diminish. Further, the petitioner has filed **Registration Certificate** and up to date **Insurance Policy** of the Vehicle. Hence, prays to release the seized Vehicle in favour of the present petitioner. Learned APP has objected the said petition.

Perused the original case record **G.R.929/2026** as well as documents submitted by the I.O. of the above case. This is a case U/s. **303(2)/3(5) of BNS, r.w. Sec. 51(1) of OMMCR.** Perused the documents filed by the petitioner in question. The seized Vehicle stands registered in the name of the present petitioner. The investigation of the case has substantially progressed. A report was called for from the concerned P.S. regarding requirement of the Vehicle for further investigation. The concerned I.O. has submitted vide **D.R. No. 648/PS, Dt. 24.04.2026** that the Vehicle is required for further investigation. But the I.O. has not mentioned any cogent ground.

At the stage considering it as a case under Rule 51 Odisha Minor Mineral Concessions Rules, 2016 this Court relies on the judgment of “***Jalendra Sahoo Vrs. State of Odisha, CRLREV No. 353 of 2020 High Court of Orissa***”

“When a property has been seized in connection with a case during its inquiry, investigation or trial or otherwise the same reported to the Magistrate, the Magistrate has power to interimly release the property, if a person claiming release of the same is entitled thereof, in exercise of power under Section 451 and 457 of the Code of Criminal Procedure notwithstanding the fact that the Magistrate has to pass a final order for disposal of the property under Section 452 of Cr. P.C. in the conclusion of the trial, which may be by way of destruction, confiscation or release in favour of the persons entitled to possession thereof. A Vehicle seized required to be released immediately in exercise of power of interim release is the dictum of the Apex Court in the case of Sundarbhai Ambala Desai - v- State of Gujarat, reported in (2003) 24 OCR (SC) 444, notwithstanding the mandate of Section 452 of Cr. P.C.

Unless there is any specific bar in the Governing Act, the seized Vehicle should be released interimly upon furnishing of security as keeping the Vehicle in an unprotected condition is beneficial to none. Even when a confiscation proceeding is provided in the Governing Act, the Court in seisin of the criminal case can exercise the power under Sections 451 and 457 of Cr. P.C. in absence of any specific statutory bar.”

This court further puts reliance upon the judgment ***Ashis Ranjan Mohanty vrs State of Orissa and others in W.P(c) No. 31622 of 2021*** in which Hon’ble Lordship held that; “*in any event, no property will be retained in the malkhana of the Court or in the police station longer than a period absolutely necessary for the purpose of the case*”. It is also held by the Hon'ble Apex Court in the case of ***Sundarbhai Ambala Desai v. State of Gujarat reported in (2003) 24 OCR (SC) 444*** wherein it is observed as under :- “*In our view, whatever be the situation, it is of no use to keep such seized Vehicle 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 Vehicle, if required at any point of time. This can be done pending hearing of applications for return of*

such Vehicles.”

*Considering the above said discussion, the petition is hereby allowed for interim release of the Vehicle i.e. **BHARAT BENZ 2826 C** bearing Registration No. **OD23U7819** having Chassis No. **MEC841KBKSP190235** and Engine No. **926956D0196826** in favour of petitioner namely, **Dolananda Padhan** in interim Zima of the present petitioner subject to following conditions:-*

(i) The petitioner is to furnish color photographs of the said Vehicle from all the four directions showing the chassis number and Regd. No. of the Trailer along with digital photographs and a video clip of not more than one minute duration of the Trailer from all angles having date and time stamp with regard to their origin, on a pen drive to be kept in a secure cover in the file. (The images should be in JPG/JPEG/PNG format and the video should be of MP4/MOV/AVI format).

(ii) The petitioner shall file a valuation report from an approved valuer or insurance agency. He shall file indemnity bond along with a surety bond of amount which is similar to that of the present value of the Vehicle.

(iii) The petitioner shall not alter the said Vehicle so as to deteriorate its market value.

(iv) The petitioner shall not sale, pledge or otherwise dispose off the said Vehicle without prior permission of the court.

(v) The petitioner shall not manipulate the Engine No. and Chassis No. of the said Vehicle.

(vi) The petitioner shall not use the said Vehicle for commission of any unlawful activity.

(viii) The petitioner shall write the registration number, engine number and chassis number on the indemnity bond and surety bond.

(ix) If a person to whom the interim custody of the property Vehicle is granted is ultimately found not entitled to it, and is unable to return it, its value shall be recovered by enforcing the bonds and the security taken from such person or recovering the monetary value from him as arrears of land revenue.

*(x) **The petitioner shall produce the said Vehicle before authorized officer/appropriate authority at the time of confiscation if, it is confiscated in future.***

(xi) The petitioner shall not sale the mortgage or transfer the ownership of the Vehicle.

The I.O. shall dispose the sand (Loaded in the Vehicle Trailer) as per the procedure. The I.O. of this case is to permit the petitioner to take photographs and video of the Vehicle, the I.O. is to monitor the process himself. Further he is to

furnish the name of the person who take photographs, video and furnishes certificate that the photographs and video were taken under his supervision. The original documents filed by the petitioner shall be released in his favour on proper application subject to substitution of the same by true copy thereof on execution of a zimanama to the effect that he will produce the same as and when same will be required in connection with this case. Send a copy of this order to the I.O. for information and necessary action. The petitioner, the informant and the accused are to remain present on the date fixed.

Dictated

Sd/-

S.D.J.M., Sambalpur