

FORM - A

<p>IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE 2ND COURT, RAGHUNATHPUR, DISTRICT - PURULIA Present : <i>Debayan Ganguly</i> Additional Chief Judicial Magistrate 2nd Court Raghunathpur, Purulia J.O. Code: WB01313 Date of the Judgment: 11th day of March, 2026 Case No. GR: 282/23 TR: 165/23 (CIS Registration No. 435/2023) (CNR No.- WBPU06-000634-2023) (Arising from Santuri P.S Case No. 33/23 dated 09/05/2023)</p>	
Complainant	State of West Bengal
Presented by	Name of Advocate: Rabi Sharma
Accused	1. Pradip Bauri 2. Bhupesh Dhayra
Represented by	Name of Advocate: Parimal Chowdhury

FORM - B

Date of Offence	09.05.2023
Date of F.I.R.	09.05.2023
Date of Police report	31.05.2023
Date of framing Charge/Plea against the accused	26.12.2023
Date of commencement of Evidence	12.03.2024
Date of examination of the accused u/s. 313 of the Cr.P.C.	11.03.2026
Date on which Judgment is reserved	N/A
Date of Judgment	11.03.2026
Date of the Sentencing Order, if any	N/A

Accused details:

Rank of Accused	Name of the Accused	Date of arrest/ surrender	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 428
A1.	Pradip Bauri	21.05.23	21.05.23	U/s- 379/411/ 414/120B of IPC & 21(1) (4) of WB Mines and Minerals (R & D) Act 1957 and 181 MV Act	Acquitted	N/A	N/A
A2.	Bhupesh Dhayra	21.05.23	21.05.23	U/s- 379/411/ 414/120B of IPC & 21(1) (4) of WB Mines and Minerals (R & D) Act 1957 and 181 MV Act	Acquitted	N/A	N/A

FORM - C**A. Prosecution:****LIST OF PROSECUTION /DEFENCE /COURT WITNESSES**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
W1.	Bikash Chandra Patra	
W2.	Manoranjan Bauri	
W3.	Sanjay Mallick	
W4.	Netai Bauri	
W5.	Samir Paramanik	
W6.	Srikrishna Mandal	

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

LIST OF PROSECUTION /DEFENCE /COURT EXHIBITS

A. Prosecution:

SR. NO.	EXHIBIT NUMBER	DESCRIPTION
1	1	The seizure list dated 09/05/23
2	1/1	The signature of P.W-1 in the seizure list dated 09/05/23
3	2	The written complaint
4	2/1	The signature of P.W-1 in the written complaint
5	1/2	The signature of P.W-2 in the seizure list dated 09/05/23
6	P-1/3	The signature of P.W-5 in the seizure list dated 09/05/23
7	P-3	Requisition dated 22/05/23
8	P-4	The reply dated 23/05/23
9	P-4/1	The signature of P.W-6 in the reply dated 23/05/23

B. Defence:

SR. NO.	EXHIBIT NUMBER	DESCRIPTION

C. Court Exhibits :

SR. NO.	EXHIBIT NUMBER	DESCRIPTION

D. Material Objects:

SR. NO.	EXHIBIT NUMBER	DESCRIPTION

JUDGMENT

This is a case u/s- 379/411/414/120B of IPC & 21(1) (4) of WB Mines and Minerals (R & D) Act 1957 and 181 MV Act. The prosecution case in short is that on 09/05/23 the complainant along with force were on day mobile duty. At about 13:15 hours he received a source information that a tractor loaded with sand was coming from Balitora towards Murulia. Thereafter they went near Ramkrishna Mission Sishu Vidyapith at about 13:45 hours and found one tractor loaded with approximately 100 cft sand. Seeing them the driver of the vehicle fled away. The said tractor was without registration number. The engine number of the tractor was 331008/SBH02944 and the chassis number was MBNAG48ACLTH69069. The complainant did not find any valid documents in respect of the sand loaded in it. Thereafter the tractor and sand were taken to Santuri P.S and the complaint was lodged.

On the basis of such complaint, Santuri P.S. chalked out formal FIR being no. 33/23 dt. 09/05/2023 u/s 379/411/414/120B of IPC & 21(1) (4) of WB Mines and Minerals (R & D) Act 1957 against the accused persons.

Thereafter, the case was investigated by the ASI of police Animesh Pati of Santuri P.S. who after completion of the investigation, submitted charge sheet being no.33/23 dt. 31/05/23 u/s 379/411/414/120B of IPC & 21(1) (4) of WB Mines and Minerals (R & D) Act 1957 and 181 MV Act against the accused persons.

Thereafter, on 26/12/2023 charge was framed u/s 379/411/414/120B of IPC & 21(1) (4) of WB Mines and Minerals (R & D) Act 1957 and 181 MV Act against the accused persons to which they pleaded not guilty and claimed to be tried.

Thereafter, the prosecution started to examine c/s witnesses and the prosecution had examined the following witnesses:-

P.W. 1 - Bikash Chandra Patra.

P.W. 2 - Manoranjan Bauri.

P.W. 3 - Sanjay Mallick.

P.W. 4 - Netai Bauri.

P.W. 5 - Samir Paramanik.

P.W. 6 - Srikrishna Mandal.

After closure of the prosecution evidence, the accused persons were examined u/s 313 Cr.PC. As no defence witness was adduced, argument was heard for both parties.

POINTS FOR DETERMINATION

- a) Whether the prosecution has been able to prove the offence u/s 379/411/414/120B of IPC & 21(1) (4) of WB Mines and Minerals (R & D) Act 1957 and 181 MV Act against the accused persons beyond the shadow of all reasonable doubts?

DECISION WITH REASONS

Having heard both sides and after perusal of the materials on record now let me scan the evidence from the case record.

P.W. 1 Bikash Chandra Patra deposed that on 09/05/23 he was posted at Santuri P.S. as SI of police. On that day he was on day mobile duty with constable Monoranjan Bauri and another constable. At that time he received an information that a tractor loaded with sand was coming from Moholia village to Balitora village. He went there to work out for the information at about 01:45 pm and when he reached at Bilitora Ram Krishna Mission Sishu Bidyapith the driver fled away from the spot leaving the tractor. There was no number plate on the said tractor. The tractor was of Swaraj company and there was trolley loaded with sand approx 100 cft. He searched for valid documents but could not find any. Then he seized that tractor along with trolley loaded with sand and brought it to the P.S. He prepared seizure list which was marked as Exhibit 1 and his signature into it was marked as Exhibit 1/1. Then he lodged a complaint before O/C Santuri P.S. which was marked as Exhibit 2 and his signature into it was marked as Exhibit 2/1.

During his cross examination he deposed that Balitora village is situated near the P.O. which is a very big village and many people reside there. The names of the constables who accompanied with him on that day was not mentioned in the written complaint. He did not receive any complaint regarding theft of sand from BL & LRO or from any private person. He did not collect any sample of the sand for expert opinion. He did not make any public witnesses as seizure witnesses.

P.W. 2 Manoranjan Bauri deposed that on 09/05/23 he was posted at Santuri P.S as constable. On that day he was in day mobile duty with ASI Bikash Chandra Patra and constable Samir Paramanik. The officer got an information that a tractor loaded with sand was coming from Balitora towards Murulia. When they reached near Ramkrishna Mission the driver fled away seeing them and the officer could not find any valid papers in the tractor. Then he seized the vehicle along with sand and brought the same to P.S. His signature in the seizure list dated 09/05/23 was marked as Exhibit-P-1/2.

During his cross examination he failed to state the topography of the P.O and the contents of the seizure list. He also failed to state the vehicle number and chassis number.

P.W. 3 Sanjay Mallick deposed that he has no idea regarding the incident.

P.W. 4 Netai Bauri deposed that he has no idea regarding the incident.

P.W. 5 Samir Paramanik deposed that on 09/05/23 he was posted at Santuri P.S as constable. On that day he was in day mobile duty with ASI Bikash Chandra Patra and constable Manoranjan Bauri at Balitora area. The officer told them to proceed towards Murulia and near Ramkrishna Mission they found a tractor loaded with sand. The driver fled away seeing them. Then he seized the vehicle along with sand and brought the same to P.S. His signature in the seizure list dated 09/05/23 was marked as Exhibit-P-1/3.

P.W. 6 Srikrishna Mandal deposed that on 22/05/23 and 23/05/23 he was posted at BL & LRO, Santuri and on 22/05/23 a requisition was submitted to his office which was marked as Exhibit-P-3. He gave a reply to it on 23/05/23 which was marked as Exhibit-P-4 and his signature in the same was marked as Exhibit-P-4/1. As per his reply no sand ghat was running under his jurisdiction at that time.

During his cross examination he admitted that he has no personal knowledge regarding the incident.

From the evidence on record it appears that P.W.3 and P.W.4 i.e. both the private witnesses did not support the prosecution case. P.W.6 was not present at the P.O at the time of the incident and he had no personal knowledge regarding the same.

As per the prosecution case, P.W.1, P.W.2 and P.W.5 were the eye witnesses to the incident. But none of them were able to state the number of the tractor as well as the topography of the P.O. Even none of them could tell the name of the accused persons from whom the tractor loaded with sand was allegedly seized. P.W.2 himself failed to state the contents of the seizure list which raises serious doubt regarding his presence at the P.O.

The deposition of P.W.1 i.e. the de-facto complainant is not free from flaws. He admitted that he did not take any sample of sand prior to such seizure. He also did not send any sample for chemical examination.

Not only that, there is no independent witness regarding the search and seizure. It is hard to believe that no independent persons were available near a school during the day time. These factors give rise to genuine suspicion regarding the prosecution case.

It is the golden principle of the criminal jurisprudence that the accused must get the benefit of doubt and no conviction should be made on the basis of mere surmise and conjecture. In the present case the prosecution story is full of loopholes and therefore it is not sufficient to bring home conviction.

Accordingly, there is no evidence that the accused persons committed theft of sand and were dealing with the same illegally.

Under the position of evidence I do not find the accused persons guilty of the charge brought against them. In other words, the prosecution has miserably failed to prove the offence u/s 379/411/414/120B of IPC & 21(1) (4) of WB Mines and Minerals (R & D) Act 1957 and 181 MV Act against the accused persons beyond the shadow of all reasonable doubts.

Hence it is

ORDERED

that the accused persons namely Pradip Bauri and Bhupesh Dhayra are not found guilty of the offence u/s 379/411/414/120B of IPC & 21(1) (4) of WB Mines and Minerals (R & D) Act 1957 and 181 MV Act and they are acquitted in terms of section 248(1) of Cr.PC and are also discharged from the bail bonds as furnished by them.

The instant case stands disposed off.

Seized alamat, if any, be disposed off in accordance with law after expiry of the appeal period.

Note in the TR and upload the judgment in the CIS.

Dictated and corrected

by me:

Sd/-
Additional Chief Judicial Magistrate,
2nd Court,
Raghunathpur, Purulia.

Sd/-
Additional Chief Judicial Magistrate,
2nd Court,
Raghunathpur, Purulia.