

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (MODIFICATION/DELETION OF
CONDITION) NO. 9171 of 2026**

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JETHABHAI BHALABHAI ROJARA

Versus

STATE OF GUJARAT & ORS.
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Appearance:

MS NAMRATA HARISHBHAI CHAUHAN(6534) for the Applicant(s) No. 1

NOTICE SERVED for the Respondent(s) No. 2

NOTICE UNSERVED for the Respondent(s) No. 3

MR. PRANAV DHAGAT, APP for the Respondent(s) No. 1
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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY**Date : 05/08/2026****ORDER**

1. Looking to the issue involved in the present matter, learned advocates appearing for the parties have jointly requested for disposal of the present petition at an admission stage and, hence, the present petition is taken up for final disposal.

2. Rule. Learned APP Mr.Pranav Dhagat waives service of notice of rule for respondent.

3. By this petition under Articles 226 and 227 of the constitution of India read with the provisions of the BNSS and under Section 528 of the BNSS, the petitioner has prayed for modification of one of the conditions imposed by the learned Session Court, Surendranagar, while passing an order dated 22.04.2026 passed by learned 4th Additional Sessions Judge, Surendranagar in Criminal Misc. Application No. 318 of 2026, by which, the petitioner is

directed to furnish an unconditional bank guarantee to the tune of 1.5 times of the value of the seized muddamal vehicle, along with bail and bond of the same amount.

4. Heard learned advocate for the petitioner and learned Additional Public Prosecutor for the respondents.

5. Learned advocate for the petitioner submitted that that muddamal vehicle i.e.Tractor bearing Registration No. GJ-13-CB-2696 of the ownership of the petitioner was seized by the concerned authority for the offence punishable under the provisions of the Mines and Minerals (Development and Regulation) Act 1957 as well as the Gujarat Mineral (Prevention of Illegal Mining and Transportation and Storage) Rules.

6. The petitioner has preferred Criminal Misc. Application No. 318 of 2026 before the learned 4th Additional Sessions Court, Surendranagar which is allowed vide order dated 22.04.2026; however, a condition was imposed, whereby petitioner has to furnish an unconditional bank guarantee to the tune of 1.5 times of the value of the seized muddamal vehicle, along with bail and bond of the same amount. The petitioner, therefore, preferred present petition.

7. Learned advocate for the petitioner further submitted that the petitioner is the owner of the muddamal vehicle and petitioner is carrying on the business of transportation, however as stated above, the muddamal vehicle was seized by the concerned authority on allegation that it was involved in illegal mining and transportation of mines or mineral. He further submitted that in fact, the

condition imposed by the learned Court concerned is too harsh and it is not possible for the petitioner to fulfill the same. He submits that instead of bank guarantee, petitioner is ready and willing to give solvent surety of the same amount and therefore the said order may be modified to that extent. Learned advocate for the petitioner has relied upon and referred to the orders passed by the Coordinate Bench of this Court and submitted that in similar type of cases, the Coordinate Bench of this Court has passed order, whereby, the concerned owners were directed to furnish solvent surety instead of bank guarantee.

8. On the other hand, the learned Additional Public Prosecutor has opposed this petition and contended that the Sessions Court has not committed any error while imposing the aforesaid condition and, therefore, this Court may not entertain the present petition.

9. Having heard learned advocates appearing for the parties and having gone through the material placed on record, it appears that in similar type of cases, the Coordinate Bench as well as this Court has considered the request of the concerned owner to furnish solvent surety instead of bank guarantee. Therefore in the facts of the present case, the present petition deserves to be allowed.

10. The petition is allowed. The condition imposed by the learned Session Court, Surendranagar, while passing an order dated 22.04.2026 passed by learned 4th Additional Sessions Judge, Surendranagar in Criminal Misc. Application No. 318 of 2026, is hereby modified to the extent that now the petitioner is permitted to submit a solvent surety of the amount of 1.5 times of the value of the seized muddamal vehicle to the satisfaction of the authority

concerned instead of furnishing bank guarantee and bail and bond of the same amount, and upon furnishing such solvent surety, the muddamal vehicle shall be released in favour of the petitioner. Rest of the conditions imposed by the learned Court concerned shall continue to operate.

11. Rule is made absolute to the aforesaid extent. Direct service is permitted

PARMAR CHIRAG

(M. R. MENGDEY,J)