



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLREV No.300 of 2026**

(In the matter of an application under Section 438 of the  
BNSS, 2023)

Chhatish @ Chhatish Chandra  
Nayak

....

Petitioner

-versus-

State of Odisha

....

Opposite Party

For Petitioner

:

Mr. B.K. Das, Advocate

For Opposite Party

:

Mr. C.R. Swain, AGA

**CORAM:**

**JUSTICE V. NARASINGH**

**DATE OF HEARING : 29.04.2026**

**DATE OF JUDGMENT: 07.05.2026**

**V. Narasingh, J.**

1. Heard learned counsel for the Petitioner and learned counsel for the state.
2. This Criminal Revision has been preferred assailing the order dated 09.12.2025 passed by the learned J.M.F.C-I (Cog.Taking), Baripada in CMC No.452 of 2025 arising out of 2(a) CC Case No.402 of 2025, whereby the prayer of the Petitioner for release of his vehicle, namely, Mahindra Supro Profit Truck Mini VX bearing Regd. No. OD-11AC-9098 having its Chassis No. MA1FN2XURP6J53270 and Engine No.



XUP6J26781, stated to be involved in an offence under Section 52(a)(ii)/62(1) of Odisha Excise Act, 2008 in 2(a) C.C. Case No. 402 of 2025 arising out of Kuliana Excise P.R case No. 164/2025-26, was rejected.

3. Referring to the P.R in question, it is submitted by the learned counsel that the Petitioner is the owner of the vehicle bearing registration number OD-11AC-9098 and the offence in question was committed without his knowledge and he has not been arrayed as an accused. As such, he has no complicity.

4. On perusal of the impugned order, it is seen that learned Court in seisin rejected the application filed by the Petitioner for interim release of the vehicle in question primarily on the ground that in the meanwhile confiscation proceeding under Section 71 of the Odisha Excise Act, 2008 (hereinafter referred to as the "Act, 2008" has been initiated and also referring to the decision of this Court in the case of **Ghasana Mohapatra vs. State of Odisha, (2019) 73 OCR 663.**

5. Learned counsel for the Petitioner referring to the order of this Court dated 12.01.2026 in Criminal Revision No.1131 of 2025 (**Narayan Subudhi vs. State of Odisha**), submitted that this Court after referring to the corresponding provisions as contained in Section 451 and 457 Cr.P.C. (Sections 497 and 503 of BNSS) vis-à-vis Section 72 of the Act, 2008



directed for interim release of the vehicle. Hence, he prays for release of the vehicle in question.

6. Learned counsel for the State, on the other hand, opposes such release and submits that in view of the bar as contained in Section 72 of the Act, 2008 while dealing with the seized property under Section 71 of the Act, 2008 the vehicle ought not to be released and since there is no infirmity in the impugned order, the same does not warrant any interference.

7. Admittedly in the case at hand though the vehicle in question belongs to the Petitioner he has not been arrayed as an accused. On perusal of the R.C Book on record, it is seen that the vehicle is a hypothecated one.

It is submitted by the learned counsel for the Petitioner, on instruction, that though the vehicle is under seizure, he has been paying instalments which is causing hardship to him. Hence, keeping in view the judgment of this Court in the case of **Narayan Subudhi (supra)**, the vehicle in question may be released in his favour subject to the outcome of the confiscation proceeding.

8. For convenience of reference, Sections 71(3) and 72 of the Act, 2008 are extracted hereunder;

**"71. Seizure of property liable to confiscation - (1) & (2) xxx xxx xxx**



(3) Where the Collector or the Authorized Officer seized any property under Sub-section (1) or where the property seized is produced before him under Sub-section (2) and he is satisfied that an offence under this Act has been committed in respect thereof, he shall, without prejudice to any other punishment to which the offender is liable under this Act, order confiscation of the property so seized or produced together with all other materials, articles, vehicles or conveyances used in committing such offence, whether or not a prosecution is instituted for the commission of such an offence. (Emphasized)

XXX

XXX

XXX

**72. Bar of other proceedings during pendency of confiscation proceedings -**

Notwithstanding anything contained in the Code of Criminal Procedure 2 of 1974, when the Collector or the Authorized Officer or the Appellate Authority is seized with the matter of confiscation of any seized property under Section 71, no Court shall entertain any application in respect of the same property and the jurisdiction of the Collector or the Authorized Officer or the Appellant Authority with regard to the disposal of the same shall be exclusive."

9. Considering the nature of allegation and the provisions of Sections 451 and 457 Cr.P.C. (Sections 497 and 503 of BNSS) and Sections 71(3) and 72 of the Act, 2008 and the decisions of this Court in the case of **Narayan Subudhi (supra)**, and also keeping in view the law laid down by the Apex Court in the case of **Sunderbhai Ambalal Desai vrs. State of**



**Gujarat, (2002) 10 SCC 290** to ensure that the vehicle under seizure is not further exposed to the vagaries of nature, this Court is of the considered view that the impugned order dated 09.12.2025 passed by the learned J.M.F.C-I, (Cog. Taking) Baripada in CMC No.452 of 2025 is liable to be set aside.

Accordingly, impugned order dated 09.12.2025 passed by the learned J.M.F.C-I, (Cog. Taking) Baripada in CMC No.452 of 2025 is set aside with a direction to the learned J.M.F.C-I, (Cog. Taking) Baripada for interim release of the vehicle bearing registration OD-11AC-9098 in favour of the Petitioner forthwith subject to verification of its ownership and by imposing such suitable conditions as deemed necessary including the conditions that the vehicle should not be altered in any manner nor its ownership shall be changed. And, such interim release shall be subject to the outcome of the confiscation proceeding.

10. The Criminal Revision is accordingly disposed of.

**(V. NARASINGH)**  
**Judge**

Signature Not Verified

Digitally Signed  
Signed by: SOUMYA RANJAN SAMAL  
Designation: Jr. Standing Counsel  
Reason: Authentication  
Location: High Court of Orissa  
Date: 09-May-2026 11:48:53

Orissa High Court, Cuttack,  
Dated the 7<sup>th</sup> May, 2026/Soumya