



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Criminal Miscellaneous (Petition) No. 3654/2026
CNR: RJHC010418652026 | URN: CRLMP / 6541U / 2026

Dinesh Singh S/o Bhagwan Singh, Aged About 22 Years, R/o
Chawa Tehsil Baytu District Balotara Rajasthan

-----Petitioner

Versus

1. State Of Rajasthan, Through PP
2. The Mining Department, District Jodhpur

-----Respondents

Connected With

S.B. Criminal Miscellaneous (Petition) No. 3700/2026
CNR: RJHC010449862026 | URN: CRLMP / 6610U / 2026

Devilal S/o Madhu Gurjar, Aged About 20 Years, Resident Of
Hamotpura, Amargarh, District Bhilwara Raj.

-----Petitioner

Versus

1. State Of Rajasthan, Through PP
2. The Mines And Minerals Dept., Through Aag.

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 3804/2026
CNR: RJHC010459752026 | URN: CRLMP / 6799U / 2026

Yat Khan S/o Nihal Khan, Aged About 41 Years, R/o Shindhiyo Ki
Dhani Ghantiyala, Po Ghantiyala, District Jodhpur, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through PP
2. The Mining Department, District Jodhpur, Rajasthan

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 4533/2026
CNR: RJHC010553412026 | URN: CRLMP / 8277U / 2026

Narayan Lal S/o Heeralal Ji Gurjar, Aged About 48 Years, R/o
Alagvas, Thana Kareda, District Bhilwara, Rajasthan

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 4591/2026
CNR: RJHC010553362026 | URN: CRLMP / 8348U / 2026

Mahendra Bheel S/o Shambhuji Bheel, Aged About 27 Years, R/o
Alagvas, Thana Kareda, District Bhilwara, Rajasthan.



-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 4909/2026
CNR: RJHC010600502026 | URN: CRLMP / 8846U / 2026

Ashok Choudhary S/o Shri Durgaram Choudhary, Aged About 32
Years, Resident Of Saran Nagar A Road, Banar, Jodhpur Raj.

-----Petitioner

Versus

1. State Of Rajasthan, Through PP
2. The Mining Department, Through Its Authorized Officer,
Jodhpur.

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 4935/2026
CNR: RJHC010588942026 | URN: CRLMP / 8880U / 2026

Lokendra Singh S/o Lal Singh, Aged About 40 Years, R/o
Vadapunali, Police Station Dovra, District Dungarpur, Rajasthan.

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 5053/2026
CNR: RJHC010618112026 | URN: CRLMP / 9085U / 2026

Mahipal Karan S/o Shri Amar Karan, Aged About 40 Years, R/o
Surpura Tehsil Pachpadra District Balotra Rajasthan

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 5054/2026
CNR: RJHC010619762026 | URN: CRLMP / 9086U / 2026

Dashrath S/o Shri Jagdish, Aged About 30 Years, R/o Dhalmu
Maanpura, Tehsil District Pratapgarh.

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 5275/2026
CNR: RJHC010632002026 | URN: CRLMP / 9461U / 2026

Vikram Singh Bhati S/o Sajjan Singh, Aged About 25 Years, R/o
235 Vidhya Nagar, Behind Rto Office, Jodhpur



-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 5308/2026
CNR: RJHC010631952026 | URN: CRLMP / 9516U / 2026

Dheeraj Construction Company Prop. Ashok Kumar, Prop. Ashok Kumar S/o Sh. Babu Lal Age 27 R/o 572, Maji Wala Ansik, Pachpadara Raj.

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 5316/2026
CNR: RJHC010636852026 | URN: CRLMP / 9528U / 2026

Ugma Ram S/o Bhana Ram, Aged About 37 Years, R/o Maliyo Ki Dhani, Binawas, District Jodhpur.

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 5341/2026
CNR: RJHC010630752026 | URN: CRLMP / 9568U / 2026

Nawal Singh S/o Amar Singh, Aged About 34 Years, R/o Of Sohela, PS Bahraini, Tehsil Peepli, Distt. Toni, Rajasthan

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 5358/2026
CNR: RJHC010638692026 | URN: CRLMP / 9592U / 2026

Kishan Singh S/o Lichhman Singh, Aged About 37 Years, R/o Dhod Road, Dist. Sikar,raj.

-----Petitioner

Versus

1. State Of Rajasthan, Through PP
2. The Mining Department, District Jodhpur

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 5360/2026
CNR: RJHC010638802026 | URN: CRLMP / 9595U / 2026

Sharwan Singh S/o Bhagawan Singh, Aged About 31 Years, R/o Ghorawar Jaitaran, Dist. Beawar,raj.



-----Petitioner

Versus

1. State Of Rajasthan, Through PP
2. The Mining Department, District Jodhpur

-----Respondents

S.B. Criminal Miscellaneous (Petition) No. 5370/2026
CNR: RJHC010630692026 | URN: CRLMP / 9608U / 2026

Mahadev S/o Shri Ramchandra Meena, Aged About 49 Years, R/o
Bhagton Ki Jhupadiyan, Ps Jahajpur, Dist. Bhilwara (Raj)

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 5996/2026
CNR: RJHC010697392026 | URN: CRLMP / 10623U / 2026

Mukesh Matva S/o Shri Chhoturam, Aged About 28 Years,
R/oward No. 11, Dadiya, District Sikar.

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 6171/2026
CNR: RJHC010717032026 | URN: CRLMP / 10889U / 2026

Raju Singh S/o Shri Mangu Singh, Aged About 45 Years, R/o
Chhittar Singh Ka Khera, Kothaj District Bhilwara Rajasthan.

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 6178/2026
CNR: RJHC010716852026 | URN: CRLMP / 10902U / 2026

Ramesh S/o Shri Mishrilal, Aged About 38 Years, R/o Bhagaton Ki
Jhupdiya, Tehsil Jahajpur, District Bhilwara (Rajasthan).

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 6183/2026
CNR: RJHC010716922026 | URN: CRLMP / 10917U / 2026

Rampal S/o Shri Chandmal Meena, Aged About 33 Years,
Pradeep Nagar, Deoli, District- Tonk Rajasthan.

-----Petitioner



Versus

State Of Rajasthan, Through PP

----Respondent

S.B. Criminal Miscellaneous (Petition) No. 6184/2026
CNR: RJHC010716882026 | URN: CRLMP / 10918U / 2026

Hansraj Meena S/o Shri Nandlal Meena, Aged About 35 Years,
Naadi Ka Jhupda, Goramgarh, P.s. Jahajpur, District Bhilwara
Rajasthan.

----Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent

S.B. Criminal Miscellaneous (Petition) No. 6659/2026
CNR: RJHC010760472026 | URN: CRLMP / 11743U / 2026

Jitendra Singh Solanki S/o Shri Uday Singh Solanki, Aged About
54 Years, R/o Vana Chawk, Jhilwara, District Rajsamand,
Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor
2. The State Of Rajasthan, Through Special Public
Prosecutor, Mine And Mining Department, Sojat Distt. Pali.
3. The Department Of Mine And Geology, Udaipur, Rajasthan

----Respondents

S.B. Criminal Miscellaneous (Petition) No. 6739/2026
CNR: RJHC010774942026 | URN: CRLMP / 11855U / 2026

Mohan Lal S/o Jagaram Choudhary, Aged About 40 Years,
Resident Of Village And Post Narlai, Tehsil Desuri, District Pali
(Raj)

----Petitioner

Versus

1. State Of Rajasthan, Through Learned PP
2. Mining Engineer, Department Of Mine And Geology, Sojat
Circle, District Pali (Raj.)

----Respondents

S.B. Criminal Miscellaneous (Petition) No. 7347/2026
CNR: RJHC010804592026 | URN: CRLMP / 12670U / 2026

Lokesh Kumar S/o Shri Jaisingh Meena, Aged About 27 Years, R/
o Luharikalan Ps Hanumannagar, At Present R/o Lal Ka Bada P.s.
Jahajpur, District Bhilwara Rajasthan.

----Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent



S.B. Criminal Miscellaneous (Petition) No. 7741/2026
CNR: RJHC010846792026 | URN: CRLMP / 13237U / 2026

Ratna Ram S/o Bhaga Ram, Aged About 33 Years, Resident Of
Vishnoiyo Ki Dhani Fitkasani Tehsil Luni District Jodhpur

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

S.B. Criminal Miscellaneous (Petition) No. 7749/2026
CNR: RJHC010846802026 | URN: CRLMP / 13258U / 2026

Ramdeen S/o Maga Ram, Aged About 38 Years, Resident Of
Godara Ko Dhani Hingoli Surpura Khurd Tehsil Bhopalgarh
District Jodhpur

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

For Petitioner(s)	: Mr. Sanjay Bishnoi, Mr. N.K. Gurjar, Mr. Bharat Gurjar, Mr. Bharat Shrimali, Mr. Ramniwas Bishnoi, Dr. Ashok Choudhary, Mr. Robin Singh, Mr. Ravi Panwar, Mr. Surendra Choudhary, Mr. Jaipal Singh, Mr. Pawan Vishnoi, Mr. Deepak Nehr, Mr. Dola Ram, Mr. C.P. Rajora, Mr. Shiv Singh, Mr. Kansingh Oad, Mr. Ram Niwas and Mr. Kirshan Lal Vishnoi.
For Respondent(s)	: Mr. Mahaveer Bishnoi, AAG with Mr. Devendra Prajapat and Ms. Navya Sharma. Mr. Sriram Choudhary, PP

HON'BLE MR. JUSTICE SUNIL BENIWAL

Order

Conclusion of Arguments &

Reserved on : 03/10/2026

Pronounced on : 16/10/2026

1. Since the present batch of petitions involves a common question of law, the same are being decided by this common order.



2. For brevity, the facts as narrated in S.B. Cr. Misc. Petition No. 3654/2026 are being considered.

2.1. Vehicle bearing No. RJ-39-GA-6293 was seized by the police in connection with FIR No. 136/2025, registered at Police Station Samdari, Balotra, on 19.10.2025 for offences punishable under the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the 'MMDR Act') and the Rajasthan Minor Mineral Concession Rules, 2017 (hereinafter referred to as the 'MMCR Rules'), as it was found to be involved in the transportation of unauthorized mineral (sand).

2.2. The vehicle was originally registered in the name of Dhanlaxmi Enterprises and was subsequently sold to the present petitioner. Claiming to be the registered owner, the petitioner filed an application before the Magistrate under Section 503 of the BNSS seeking release of the vehicle.

2.3. Vide order dated 07.04.2026, the Magistrate ordered the release of the vehicle, subject to certain conditions, including payment of penalty/compensation and furnishing of a Supurdginama. Hence, the present petition.

3. Aggrieved by the imposition of conditions other than furnishing of a Supurdginama, the present petitions have been filed, inter-alia, contending that no complaint was filed by the Department and that the proceedings were initiated on the basis of an FIR registered at the instance of the police. Therefore, the provisions of Rules 56 and 57 of the MMCR Rules are not applicable to the present case.

3.1. While placing reliance on certain judgments of the Apex Court, it was contended that, in the absence of a complaint by the



Department, the Magistrate could not have imposed conditions requiring deposit of the NGT penalty, compounding fees or compensation. It was further contended that the vehicle ought to have been released in accordance with the principles laid down by the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai Vs. State of Gujarat; AIR 2003 SC 638***, as well as the judgment passed by a Co-ordinate Bench of this Court in ***Kishore Singh Vs. State of Rajasthan; S.B. Crl. Misc. Petition No.3595/2021*** (decided on 15.09.2021).

4. In all the matters, the principal arguments are common, except in S.B. Crl. Misc. Petition No.6739/2026 wherein it was contended that the vehicle was not carrying any mineral at the time of seizure. In another matter being S.B. Crl. Misc. Petition No.6659/2026, it was contended that the notice issued by the Mining Department was not in accordance with the Rules. In S.B. Crl. Misc. Petition No.5370/2026, it was contended that the vehicle was found to be carrying only certain particles of sand.

5. Before learned counsels for the petitioners could make submissions on the merits of the matter, learned AAG submitted that the issue involved in the present batch of petitions is no longer *res integra* in view of the recent pronouncement of a Co-ordinate Bench of this Court in a bunch of cases, led by ***Phusaram Vs. State of Rajasthan & Anr.; S.B. Criminal Misc. Petition No. 3920/2026***, decided on 21.08.2026. He submitted that all the legal contentions raised in the present batch of petitions had been considered in the said judgment, wherein, after taking into consideration various pronouncements of the Apex Court as well as this Court on the issue under consideration, the



petitions were dismissed as being devoid of merit. On the basis of the said submissions, learned AAG contended that the present batch of petitions also deserves to be dismissed.

6. The common submissions advanced by learned counsel appearing for the petitioners in the present batch of petitions are as follows:-

(i)- The vehicles were seized merely on the basis of an apprehension, whereas they were not found to be involved in the transportation of illegally mined sand.

(ii)- Vehicles were seized dehors the Rules.

(iii)- The FIRs were registered by the police on the apprehension that the vehicles were involved in the transportation of illegally mined minerals. In the absence of any formal complaint by the officials of the Mining Department, the provisions of the mining laws could not have been invoked. Consequently, the vehicles are required to be treated as having been seized in connection with offences under the BNS, and no conditions other than those permissible under the BNSS could have been imposed for their release.

(iv)- Mere issuance of a notice, in the absence of a final confiscation order, cannot be treated as the initiation of confiscation proceedings. Accordingly, the vehicles ought to have been released upon furnishing a Supurdginama, without insisting upon payment of compensation, compounding fees or NGT fees. The Magistrate could not have imposed compounding fees unless the petitioners consented to the compounding of the alleged offences. Such forced compounding is contrary to law and would



deprive the petitioners of their right to contest the matter on merits.

(v)- A Co-ordinate Bench of this Court, while considering **S.B. Criminal Misc. Petition No. 6909/2025; Anwar Ali Vs. State of Rajasthan & Anr.**, allowed similar petitions vide order dated 27.08.2025. The judgment passed in the case of **Phusaram** (supra), relied upon by learned AAG, is distinguishable on facts as well as in law and is, therefore, not applicable to the present cases.

6.1. Based on the above submissions, learned counsel for the petitioners submitted that the present petitions deserve to be allowed and the impugned conditions deserve to be quashed.

7. Learned AAG, while countering the submissions made on behalf of the petitioners and in addition to his preliminary submission recorded above, made the following submissions:-

(i)- In the case of **Phusaram** (supra) in paragraphs 37, 40, 41, 45, 50, 51, 53 and 54, all the issues raised in the present batch of petitions, including whether the Magistrate can impose conditions relating to payment of compensation/compounding fees in the absence of a complaint by the Mining Department, the stage at which confiscation proceedings can be said to have commenced, and whether proceedings initiated under the BNS/IPC would, in any manner, affect the proceedings or complaint initiated by the Mining Department, have already been thoroughly considered and decided by the Co-ordinate Bench. None of the contentions raised therein or in the present petitions was found to have any merit and, accordingly, the petitions were dismissed.



(ii)- The conditions imposed for the release of the vehicles and the action taken against the petitioners are in accordance with the guidelines dated 05.03.2021 framed by the State Government pursuant to the directions issued by the Division Bench of this Court in the case of ***Khem Singh Vs. State of Rajasthan & Ors.; D.B. Civil Writ Petition No.4239/2019*** (decided on 03.09.2019). The action taken against the petitioners strictly conforms to the aforesaid guidelines and the procedure adopted and followed at the time of seizure of the vehicles-in-question is in accordance with law.

(iii)- The Magistrate was justified in imposing conditions relating to payment of NGT penalty, compensation and compounding fees, as the vehicles-in-question were found to have been involved in the illegal transportation of minerals (sand). The Mining Department had not acted in contravention of the Rules and that the alleged minor procedural irregularities, such as the time granted in the notice, the presence of only a few particles of sand in the vehicle, or the seizure of a vehicle in which no mineral was found but equipment used for excavating sand was present, would not, by themselves, warrant the release of the vehicles without imposing the applicable penalty and other conditions.

(iv)- The seizure proceedings are initiated only after the competent authority is satisfied that the vehicle-in-question has been used for the illegal transportation of minerals (sand). A vehicle may be seized while carrying sand for delivery, while returning after unloading the illegally transported sand, or during the process of unloading. However, in each of these circumstances, the seizure proceedings are initiated only upon the



authority being satisfied that the vehicle has been used for the illegal transportation of minerals (sand).

7.1. Based on the above submissions, learned AAG submitted that the present petitions deserve to be dismissed as the impugned conditions have been imposed in accordance with law.

8. Heard learned counsel for the parties and perused the material available on record.

9. Before examining the judgment relied upon by learned AAG, it would be appropriate to first consider the judgments cited by learned counsel for the petitioners.

9.1. In the case of **Anwar Ali** (supra), which was decided on 27.08.2025, the Court, while allowing the petition, relied on the judgment passed by the Apex Court in **Sunderbhai Ambalal Desai** (supra) and the judgment passed by a Co-ordinate Bench of this Court in **Kishore Singh** (supra). While allowing the petition, the Court observed that the vehicle seized by the police in connection with the offence of theft of mineral is governed by the provisions of the BNSS and that the disposal of such a seized vehicle is also required to be governed by the said provisions. It is pertinent to note that therein the confiscation proceedings had not been initiated by the Department.

9.2. It is also pertinent to note that both the judgments relied upon by the Court in **Anwar Ali** (supra) have been considered in the subsequent judgment passed in the case of **Phusaram** (supra).

9.3. The judgment in the case of **Anwar Ali** (supra), relied upon by learned counsel for the petitioners, do not principally deal with the issue of whether, in the absence of a formal complaint



submitted by the Mining Department under Rules 54 and 60 of the MMCR Rules, the Magistrate could impose such conditions. Further, neither the judgment passed by the Division Bench of this Court nor the guidelines framed by the State Government pursuant to the directions issued by the Court were brought to the notice of the Court in the case of **Anwar Ali** (supra). Therefore, the said judgment cannot be considered to lay down the law on the subject matter under consideration in the present batch of petitions.

10. It would now be appropriate to deal with the judgment passed by a Co-ordinate Bench of this Court in **Phusaram** (supra), as relied upon by learned AAG, which was decided on 21.08.2026.

The relevant paragraphs are reproduced hereinbelow :-

“40. The legal position governing release of vehicles involved in illegal mining is no longer res integra. The Hon’ble Supreme Court in **In Re: Illegal Sand Mining in the National Chambal Sanctuary** (supra) has emphasised the necessity of effective enforcement measures, including prompt seizure and confiscation, for curbing organised illegal mining. Likewise, in **Jagdish Prasad** (supra), the Hon’ble Supreme Court set aside the orders directing release of seized vehicles merely on furnishing personal security and held that release could be granted only upon deposit of the amounts prescribed under the MMCR Rules, together with the compensation determined by NGT. The judgments in **Kishore Singh and Girraj Meena** (supra) have clearly laid down that where confiscation proceedings had been initiated, the vehicle shall only be released on payment of penalty and compounding fee. Whereas, in cases where no confiscation proceedings had yet been initiated, it was directed that vehicle be released subject to furnishing a bank guarantee equivalent to the said amount, to secure the amount if required to be levied in future. The judgment of **Kishore Singh** was followed in **Narayan Gadri** (supra). In **Jitendra Meena** (supra), this Court further held that vehicles seized by the Police, under the Motor Vehicles Act or by the Mining Department are required to be treated at par, and can be released only upon depositing the statutory amount/penalty. The principles laid down in the aforesaid judgments have subsequently been reiterated by the judgment of co-ordinate bench in **Girraj Meena** (supra).



41. The aforesaid judgments have held that, once confiscation proceedings have been initiated, the vehicle cannot be released merely on personal security/supurdginama and its release is subject to compliance with the conditions prescribed in accordance with law. The question that arises for consideration, therefore, is as to when such proceedings can be said to have commenced, particularly in cases where the final order of confiscation is yet to be passed. The said question has to be determined with reference to the statutory scheme governing the proceedings.

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43. The statutory mechanism provided under Rules 54 and 60 proceeds through successive stages. Under Rule 54 upon seizure of the vehicle demand as per Sub-Rule 3 is determined and notice for depositing the amount/penalty is issued for releasing the vehicle. The matter is reported to the senior officials and magistrate within seventy two hours. Upon failure to deposit, the vehicle is confiscated under orders of the Magistrate upon application. However three months time is given to deposit the penalty amount before order of confiscation is passed. The Guidelines, in addition provide for 15 days time to the owner to submit an explanation after seizure, and thereafter, in the event of an unsatisfactory explanation, the statutory amount/penalty is determined and a demand is served, along with a notice for initiation of proceedings for confiscation and auction of the vehicle for recovery of the dues, as prescribed.

44. However, in proceedings under Rule 60, there is no corresponding waiting period of three months. Under this rule, upon seizure, if the statutory dues/penalty, as required under subrule 5 are not deposited, the vehicle becomes liable to confiscation by the empowered officer immediately. Thus, in both cases, the confiscation process has to be understood with reference to the successive stages prescribed under the respective Rules.

45. Hence, the submission advanced on behalf of the petitioners that confiscation proceedings commence only after expiry of the period of three months and upon filing of an application before the Magistrate cannot be accepted in such absolute terms. The said period prescribed under 54(6) only provides an opportunity to the person concerned to compound the offence and discharge the statutory liability, before the seized property becomes liable to confiscation. It does not, however, mean that the statutory process leading to confiscation remains non-existent during that period. Thus, once the liability has been determined and the demand and requisite notice informing the person concerned of the consequences of non-compliance are issued, the confiscation process can be said to have been set in motion for the purpose of considering the release of the seized vehicle. The expiry of the



three-month period thereafter only enables the competent authority to proceed to the stage of order of confiscation to be passed by magistrate as contemplated under Rule 54(6).

46. The distinction between commencement of the statutory process and passing of the final order of confiscation is material. The fact that the final order of confiscation is to be passed at a subsequent stage does not mean that the confiscation proceedings had not already been initiated. Neither the distinction as to the authority competent to pass the final order under Rule 54 and 60 alter the point at which the confiscation process commences. The three months period cannot be construed to confer an unrestricted right to obtain release of the seized vehicle merely on personal security or surety during the said period, once the statutory process of confiscation has already been set in motion. If the interpretation suggested by the petitioners is accepted, it would create a situation where a person may deliberately refrain from depositing the requisite amount and seek release of the vehicle merely on personal security without securing the statutory dues or penalty. Such an interpretation would defeat the statutory scheme and its object.

47. The statutory scheme further demonstrates that the seized vehicle or machinery forms an important part of the statutory mechanism for securing compliance with the liabilities determined thereunder. Once the confiscation process has commenced, release of the vehicle without securing compliance with the statutory conditions prescribed under the Rules would substantially dilute the efficacy of that mechanism, defeat the object and purpose of Rules 54 and 60, and leave the Department to resort to other modes of recovery available under law. Such other modes of recovery may supplement the statutory mechanism, but cannot be construed as a substitute for the confiscation process consciously enacted under Rules 54 and 60. The seized vehicle, therefore, remains subject to the statutory mechanism until the proceedings culminate in accordance with law.

48. Another aspect requiring consideration is whether pendency of the criminal prosecution affects the statutory proceedings for confiscation and recovery under the mining laws. The criminal prosecution and the confiscation proceedings undertaken under the mining laws operate in distinct fields and serve different purposes. Criminal prosecution is directed towards determination of the criminal liability of the offender and imposition of punishment in accordance with law. Confiscation proceedings, on the other hand, concern the property or instrumentality involved in the illegal activity and are intended to provide an effective statutory mechanism for dealing with such property and preventing its further use in unlawful activities. They also serve as an effective deterrent against repeated violations of the mining laws. The confiscation



mechanism is, therefore, an independent statutory remedy operating alongside the criminal prosecution.

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50. Therefore, the argument of the petitioners that, in the absence of a complaint by the competent officer and cognizance by the Court under Section 22 of the MMDR, they cannot be compelled to deposit the amount of statutory dues/penalty or no confiscation proceedings can be initiated, is also untenable. The contention that the confiscation proceedings and liability under the mining laws can be enforced only after conclusion of the criminal prosecution is equally untenable. As observed hereinabove, criminal prosecution and departmental action/confiscation proceedings operate in distinct fields and have different objects. They are independent of each other. The pendency or outcome of the criminal prosecution does not, by itself postpone or nullify the statutory proceedings undertaken by the Department in respect of the vehicle under the mining laws. The legal position in this regard stands settled by the judgments referred to hereinabove.

51. The petitioners have also contended that, in the absence of a complaint by the authorised officer, no police action can be taken and no seizure of the vehicle can be effected. This contention also has no force in view of the discussion made hereinabove. Section 22 of the MMDR and Rule 56 of MMCR places a restriction on cognizance being taken by the Court of an offence punishable under the said Act or Rules except upon a complaint made by a person authorised. It does not bar the police from investigating the matter or taking consequential action in accordance with law. No such stage of taking cognizance has been reached in the present cases. This issue has already been settled by the Hon'ble Supreme Court in *Jayant v. State of M.P.*, (2021) 2 SCC 670. The reliance placed upon the judgment of the Hon'ble Supreme Court in *Kanwar Pal Singh v. State of U.P.*, AIR Online 2019 SC 1930, as also upon the judgment of this Court in *M/s Mahadev Construction v. State*, does not advance the case of the petitioners.

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53. In view of the observations made above, once the confiscation process has been set in motion under the MMCR Rules by the Mining Department, the release of the vehicle has to be considered in accordance with the statutory conditions applicable to the respective case and the principles laid down in the judgments referred to hereinabove. Where the confiscation process has been initiated and the liability/penalty payable in respect of the vehicle has been determined, the vehicle cannot be released merely on personal security/supurdginama or surety, and its release would be subject to payment of the statutory amount/penalty, including the cost of mineral, compounding fee



and compensation determined by the NGT, as may be applicable in the particular case, and compliance with other general conditions. Where, however, the confiscation process has not yet been initiated, the vehicle may be released upon furnishing an active bank guarantee equivalent to the amount which may become payable upon initiation and conclusion of the confiscation proceedings.”



11. Upon close scrutiny of the aforesaid judgment, this Court observes that most of the questions raised in the present batch of petitions have already been answered. Accordingly, this Court does not consider it necessary to revisit those issues, particularly with regard to whether a condition requiring payment of penalty and compounding fees could be imposed in the absence of a complaint by the Mining Department; at what stage the confiscation proceedings are deemed to have commenced; whether the Magistrate could impose such a condition at the time of releasing the vehicle in the absence of a final confiscation order passed by the mining authority; and the scope of the proceedings in respect of offences registered under the IPC/BNS vis-à-vis those registered under the mining law, including the scope of concurrent jurisdiction. That being so, no further deliberation on these issues raised by the petitioners in the present batch of petitions is required.

12. In addition to the issues already decided in the case of **Phusaram** (supra), the additional submissions made by some of the petitioners were to the effect that, at the time of seizure, the vehicles were not carrying mines and minerals (sand), but only equipment for excavating minerals, or that some mining articles of Bajri were found in the vehicles at the time of seizure. However,



these circumstances would not automatically make out a case for the complete exoneration of the petitioners.

12.1. These submissions are required to be considered during the investigation and, if necessary, during the trial. At the stage of release of the vehicle, the Magistrate is only required to record *prima facie* satisfaction regarding the involvement of the vehicle.

It is also to be noted that the petitioners' grievance in the present cases is not with regard to the registration of the FIRs themselves, but their prayer is confined to challenging the imposition of certain conditions which, according to them, are contrary to law. That being so, this Court is not inclined to entertain such a plea, particularly when the prayer and the principal ground of challenge relate to the competence of the Magistrate to impose conditions that are not prescribed for the release of a vehicle under the BNSS/Cr.P.C..

13. As an upshot of the above discussion, the present misc. petitions are **dismissed** being devoid of merit.

14. Pending application(s), if any, stand(s) disposed of.

(SUNIL BENIWAL),J

RAKESH MATHUR