



2026:AHC:198430

Reserved On: 20.05.2026
Delivered on :22.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 2420 of 2023

Rahul @ Dharamdev

.....Petitioner(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Petitioner(s)	: Gyan Prakash Mishra, Santosh Kumar Singh
Counsel for Respondent(s)	: C.S.C.

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Heard Sri Santosh Kumar Singh and Sri Gyan Prakash Mishra, learned counsel for petitioner and Sri Amrit Raj Chaurasiya, learned AGA for State – respondent.

2. This present petition Matters Under Article 227 has been filed before this Hon'ble Court with the prayer to:

a) issue a direction to set aside the orde dated 28.10.2022, passed by District Judge Bulandshahar, in Civil Appeal No. 26 of 2022 (Rahul @ Dharam Dev vs. State of U.P.) and order dated 25.06.2021, passed by Collector/District Magistrate Bulandshahr, in Case No. 01106 of 2021, Computer Case No. D20211110001106 (State vs. DharamDev) under Section 72 of the Excise Act, P.S. Ramghat, District Bulandshahr.

b) Issue an order or direction to the respondent to release the vehicle bearing No. U.P. 16AH 1505 in favour of the petitioner.

3. Briefly stated, an FIR in Case Crime No. 0061 of 2021, under Sections 60 and 63 of the U.P. Excise Act, was lodged against the petitioner at Police Station Ramghat, District Bulandshahr, on 16.04.2021. The allegation, in brief, was that on 16.04.2021, the petitioner, his brother Sonu and one unknown person were found travelling in a Mahindra XUV bearing Registration No. UP-16 AH 1505, in which 19 cartons of country-made liquor were allegedly kept. The informant, SHO Birendra Singh, stated that acting on the information received from an informer, he intercepted the aforesaid vehicle and, upon search, recovered the alleged liquor.

Accordingly, the vehicle was seized under Section 207 of the Motor Vehicles Act.

4 The information regarding seizure of the vehicle was forwarded by the Senior Superintendent of Police, Bulandshahr, to the District Magistrate, Bulandshahr, who initiated confiscation proceedings under Section 72 of the U.P. Excise Act. The proceedings were registered as Case No. 01106 of 2021, State vs. Rahul @ Dharmdev. A show-cause notice was issued to the petitioner, calling upon him to submit his objections, if any. The petitioner filed his objections; however, the same were rejected by the District Magistrate.

5. By order dated 25.06.2021, the District Magistrate, Bulandshahr, confiscated the aforesaid vehicle and granted an opportunity to the petitioner, being its owner, to deposit the market value of the confiscated vehicle, assessed at Rs. 6,45,000/-, within a period of one month, failing which the Sub-Divisional Magistrate, Dibai, District Bulandshahr, was directed to auction the vehicle and deposit the sale proceeds in the Government Treasury.

6. Aggrieved by the order dated 25.06.2021, the petitioner preferred Civil Appeal No. 26 of 2022, Rahul @ Dharmdev vs. State of Uttar Pradesh, before the District Judge, Bulandshahr. The said appeal was dismissed by order dated 28.10.2022.

7. Hence, the present petition under Article 227 of the Constitution of India has been filed assailing the aforesaid orders.

Submissions on behalf of the Petitioner

8. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the aforesaid case due to election rivalries. It is further submitted that the alleged liquor was never sampled and no report of the Forensic Science Laboratory regarding its quality or nature was obtained. It is also contended that no independent witness was present at the time of the alleged search and seizure. On these grounds, learned counsel submits that the orders impugned are not sustainable in the eyes of law and are liable to be set aside.

9. Learned counsel for the petitioner has further submitted that despite issuance of show-cause notice dated 19.05.2021 in confiscation Case No. 01106 of 2021, the police personnel of Police Station Ramghat, District Bulandshahr, took the petitioner's seized vehicle for conducting a raid against accused Veerpal, son of Mohkam, resident of Village Bacheda, District Bulandshahr, on 04.06.2021. In this regard, reliance has been placed

upon G.D. Entry No. 036 dated 04.06.2021, recorded at 21:00 hours at Police Station Ramghat. It is further submitted that the said vehicle met with an accident on 07.06.2021, wherein the father and mother of one Manoj Kumar sustained serious injuries and his mother subsequently succumbed to her injuries. An FIR in this regard was lodged on 08.06.2021 at Police Station Raya, District Mathura, being Case Crime No. 0176 of 2021, under Sections 279, 338 and 304-A IPC. Learned counsel submits that the petitioner's vehicle, while remaining in the custody of the police, was used by police personnel for their own purposes and, after the accident, was again seized by the police of Police Station Raya, District Mathura, in connection with the aforesaid case.

10. Learned counsel for the petitioner further submits that despite seizure of the vehicle and pendency of confiscation proceedings, the police personnel of Police Station Ramghat, District Bulandshahr, allegedly used the petitioner's vehicle for their own purposes, resulting in a fatal accident. It is contended that the petitioner cannot be made to suffer the consequences of such unauthorised use of his vehicle by the police. Learned counsel further submits that after the petitioner raised the aforesaid issue before this Court and a reply was sought from the concerned police officers, an FIR came to be lodged against the petitioner and his family members on 09.05.2026 at Police Station Ramghat, District Bulandshahr, being Case Crime No. 0065 of 2026, under Sections 191(2), 61(2), 115(2), 352, 333 and 314(4). It is, therefore, contended that the aforesaid circumstances, including the alleged unauthorised use of the seized vehicle and the subsequent lodging of the FIR, warrant serious consideration by this Court, and the impugned orders are liable to be set aside.

Submissions on behalf of the State

11. Learned A.G.A. has admitted the factum of the alleged accident involving the petitioner's vehicle and the consequent registration of FIR in Case Crime No. 0176 of 2021. However, it is submitted that the then SHO, Virendra Singh, had directed two constables, namely, Pankaj Rana and Narendra Singh, to proceed for conducting a search for the wanted accused Veer Pal. The then Head Moharrir, Sita Ram, in collusion with the aforesaid two constables and without the knowledge of the SHO, allegedly provided the seized vehicle to them. It is further submitted that upon the matter coming to the knowledge of the then Senior Superintendent of Police, Bulandshahr, a departmental enquiry was conducted and all three police personnel were punished by awarding censure entries in their service records.

12. With regard to the FIR in Case Crime No. 0065 of 2026, learned A.G.A. submits that the same is not connected with the present matter and was lodged by one Saria Ali. It is further submitted that various litigations are pending between the parties and the aforesaid FIR was registered against the petitioner and his family members on the basis of CCTV footage allegedly showing their involvement in the offence in question.

Conclusion

13. I have considered the submissions advanced by learned counsel for the parties and perused the material available on record.

14. The record reveals that the petitioner was apprehended on the spot with the alleged illicit liquor being carried in his vehicle. The vehicle was, accordingly, seized and confiscation proceedings were initiated. The District Magistrate issued a show-cause notice to the petitioner and afforded him an opportunity to submit his objections. The objections so filed were considered and rejected by the competent authority.

15. The petitioner has not placed any substantive material on record to establish that he was falsely implicated or that the alleged liquor was planted in his vehicle. Mere denial of the allegations, in the absence of any cogent material, does not furnish a ground to interfere with the confiscation order. The petitioner was also afforded an opportunity to redeem the vehicle by depositing its assessed market value within the stipulated period.

16. In view of the aforesaid facts and circumstances, I find no illegality or perversity in the orders passed by the District Magistrate and the appellate court warranting interference under Article 227 of the Constitution of India. Accordingly, both the impugned orders, whereby the confiscation of the vehicle was upheld, are affirmed. The petition is, therefore, dismissed.

17. It is an admitted position on behalf of the State that the petitioner's vehicle, which had been seized in connection with the present confiscation proceedings, was taken out by police personnel on 04.06.2021 and was subsequently involved in an accident on 07.06.2021, resulting in the death of a person. The explanation furnished by the learned A.G.A. is that the then Head Moharrir, Sita Ram, in collusion with two constables, namely, Pankaj Rana and Narendra Singh, provided the seized vehicle to them without the knowledge of the then SHO, Virendra Singh.

18. The aforesaid explanation, instead of bringing the matter to a close, gives rise to further serious questions. The vehicle had already been seized and confiscation proceedings were pending before the District Magistrate. The police personnel, therefore, had no authority to use the vehicle for their

personal or official purposes except in accordance with law. If the vehicle was taken out from police custody without lawful authority, the same would amount to a serious breach of the duty entrusted to the police officials responsible for its custody.

19. The consequences of the aforesaid conduct are not confined to the accident alone. The District Magistrate, by order dated 25.06.2021, directed confiscation of the vehicle and granted an opportunity to the petitioner to redeem it by depositing its assessed market value of Rs.6,45,000/-, failing which the vehicle was directed to be auctioned. However, by that time, the vehicle had already been taken out of the custody of the police and had become involved in another criminal case, being Case Crime No.0176 of 2021, registered at Police Station Raya, District Mathura.

20. This Court is unable to overlook the serious practical and legal consequences arising from the aforesaid situation. Once the vehicle had been seized in connection with another criminal case, its custody and disposal were required to be dealt with in accordance with law. The direction for its redemption or auction, without first ascertaining its actual whereabouts, custody and status as case property, raises a serious question as to how the order of confiscation was intended to be implemented. The petitioner cannot be left to face the consequences of an order concerning a vehicle which, according to the State's own version, had already been taken out of police custody and had become involved in another criminal case.

21. The explanation that the then SHO was unaware of the use of the vehicle by the two constables and that the vehicle was handed over to them by the then Head Moharrir, in collusion with the said constables, also requires deeper scrutiny. The vehicle was seized at the police station and was admittedly in the custody of the police. If the SHO was unaware of the manner in which seized property was being taken out and used by police personnel posted at his own police station, the circumstances in which such a serious lapse occurred cannot be ignored. The question is not merely whether the SHO personally handed over the vehicle, but also whether there was any failure on his part to ensure proper custody and supervision of seized property.

22. The action taken by the then Senior Superintendent of Police, Bulandshahr, is equally surprising. According to the learned A.G.A., departmental proceedings were initiated against the then Head Moharrir and the two constables, and all three were awarded censure entries in their service records. The nature of the alleged misconduct, however, was not a mere procedural lapse or an inadvertent error. The allegations, if established,

would disclose unauthorised removal and use of a seized vehicle, breach of entrusted custody and conduct resulting in the vehicle being involved in a fatal accident.

23. In such circumstances, the award of a mere censure entry, without any apparent consideration of the gravity of the alleged misconduct, the consequences of the unauthorised use of the vehicle and the possibility of criminal liability, *prima facie* appears wholly inadequate. The question whether the punishment was proportionate to the misconduct and whether the departmental proceedings were conducted in a fair, impartial and meaningful manner requires independent examination. The circumstances also warrant an enquiry into whether the departmental proceedings were confined to imposing a nominal punishment, without examining the full extent of the misconduct and the possible criminal consequences thereof.

24. It is equally necessary to examine whether the alleged unauthorised removal and use of the vehicle attracts any penal provision relating to theft, criminal misappropriation, criminal breach of trust or any other offence under the applicable law. The mere fact that the vehicle was taken out for conducting a police raid would not, by itself, confer lawful authority upon the police personnel to use the seized property in a manner contrary to law. Whether the ingredients of any criminal offence are made out would, of course, depend upon the facts established during an independent investigation. However, the admitted circumstances were sufficient to warrant a serious examination of the matter from the standpoint of criminal liability, rather than treating it exclusively as a matter of departmental misconduct.

25. The absence of any apparent criminal action against the concerned police personnel, despite the admitted facts regarding removal and use of the seized vehicle and its subsequent involvement in a fatal accident, raises a legitimate concern regarding the manner in which the matter was dealt with by the police administration. The role of the then Senior Superintendent of Police, Bulandshahr, in initiating and concluding the departmental proceedings with the award of censure entries, therefore, also requires scrutiny. It would be premature to record any final finding regarding the motive or intention of any individual officer; nevertheless, the circumstances are sufficiently serious to warrant an independent and discreet enquiry.

26. If seized vehicles are permitted to be removed from police custody and used without lawful authority, and the consequences are thereafter dealt with merely by imposing nominal departmental punishments, it would seriously undermine public confidence in the administration of criminal justice.

Seizure of property by the police is an exercise of statutory authority and carries with it a corresponding obligation to preserve and protect such property in accordance with law. The possibility that a vehicle seized from a citizen may thereafter be used or misappropriated by the very officials entrusted with its custody is a matter which this Court cannot countenance.

27. The present matter, therefore, raises issues which extend beyond the individual grievance of the petitioner and warrant examination at the level of the State Police Administration.

28. In view of the aforesaid facts and circumstances, this Court considers it appropriate to direct the Director General of Police, Uttar Pradesh, to conduct a discreet and independent enquiry into the entire matter, either personally or through a senior police officer not connected with the district concerned or the earlier departmental proceedings.

29. The enquiry shall specifically examine:

- The circumstances in which the petitioner's seized vehicle was taken out from Police Station Ramghat on 04.06.2021, particularly in light of G.D. Entry No.036 dated 04.06.2021, and the respective roles of the then Head Moharrir, Sita Ram, and constables Pankaj Rana and Narendra Singh.
- The role and responsibility of the then SHO, Virendra Singh, including whether the alleged unauthorised removal and use of the seized vehicle occurred without his knowledge and whether any supervisory or custodial lapse is attributable to him.
- The circumstances in which the vehicle was involved in the accident dated 07.06.2021, the registration of Case Crime No.0176 of 2021 at Police Station Raya, District Mathura, and the subsequent seizure and custody of the vehicle as case property.
- The legality, fairness and adequacy of the departmental proceedings initiated by the then Senior Superintendent of Police, Bulandshahr, including whether the award of censure entries to the concerned police personnel was proportionate to the nature and gravity of the alleged misconduct and whether the possibility of criminal liability was duly examined.
- The role of the then Senior Superintendent of Police, Bulandshahr, in dealing with the matter, including whether any failure to initiate appropriate criminal proceedings or to ensure an impartial enquiry occurred.
- Whether the facts disclosed by the record prima facie attract any criminal offence, including theft, criminal misappropriation, criminal breach of trust or any other offence under the applicable law, and whether registration of an

FIR or any further lawful action is warranted.

- The present whereabouts and legal status of the vehicle, including whether it continues to be case property in Case Crime No.0176 of 2021 and how the confiscation order dated 25.06.2021 was dealt with in view of its subsequent seizure in the said case.

30. The Director General of Police, Uttar Pradesh, shall ensure that the enquiry is conducted independently, without being influenced by the earlier departmental proceedings or the conclusions recorded therein. The relevant General Diary entries, departmental enquiry records, seizure memos, accident records and other connected documents shall be duly examined and preserved.

31. The enquiry shall be completed, preferably within a period of eight weeks from the date of production of a certified copy of this order. The Director General of Police shall thereafter submit a compliance report before this Court, indicating the findings of the enquiry and the action taken or proposed to be taken in accordance with law.

32. It is clarified that the aforesaid directions are intended to ascertain the facts and fix responsibility in accordance with law. No final finding regarding the criminal liability of any individual police official is being recorded at this stage.

33. Copy of this order be sent to the Director General of Police, Uttar Pradesh through Registrar (Compliance) of this High Court.

September 22, 2026
Mukesh

(Anil Kumar-X,J.)