



2026:AHC:61666

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 6185 of 2026

Smt Basmati

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Prashant Yadav
Counsel for Respondent(s)	:	G.A.

Court No. - 80

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard learned counsel for the petitioner and learned A.G.A. for the State-respondents.

2. The present writ petition has been filed with following prayer:

"(I) Set aside the impugned judgments and orders dated 15.5.2025 and 21.1.2026 passed by the learned District Magistrate Azamgarh in case no. 2425/2024 computerized case no. D202415060002425, Sarkar versus Basmati under section 5(A) of U.P. cow slaughter Act 1955 and the Commissioner Azamgarh Division Azamgarh passed in revision no. 38/A of 2025 computerized case no. C202515000002469 under section 5A (8) of U.P. Cow Slaughter Act 1955. (Annexure no. 7 and 10) to the petition.

(II) Issue an order or direction in the nature of mandamus directing the respondents to release the petitioner's Vehicle Pickup no. UP50DT 5298."

3. The brief facts of the case are to the effect that an F.I.R. was registered as Case Crime No. 367 of 2024, under Sections 3/5A/8 of the Uttar Pradesh Prevention of Cow Slaughter Act, 1955 (hereinafter referred to as "the Act, 1955") and Section 11 of the Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as "the Act, 1960") at P.S. Ahraula, District Azamgarh, on 21.08.2024. It is alleged that co-accused Munna @ Katari, was driving the vehicle and he was arrested by the police, however, other persons managed to run away from the place of occurrence. It is also stated that the accused persons were transporting the

cows and its progeny by using Vehicle/Pickup No. UP 50 DT 5298.

4. The police investigated the matter and submitted chargesheet in this case. During the course of investigation, the police came to know that the petitioner was the registered owner of the aforesaid vehicle. The Superintendent of Police, Azamgarh, forwarded an application on 29.08.2024 with a prayer to confiscate the aforesaid vehicle. The District Magistrate, Azamgarh, issued notice to the petitioner and objection was filed by the petitioner, but the same was dismissed by the District Magistrate, Azamgarh, vide order dated 15.05.2025.

5. It is submitted by the learned counsel for the petitioner that the petitioner is a widow lady and she is the only owner of Vehicle/Pickup No. UP 50 DT 5298. It is further submitted that, as per the allegations in the FIR, no recovery of beef was made, and the allegation pertains only to the transportation of cows and its progeny. It is further submitted that no cow progeny was killed and no beef was recovered from the said vehicle. Learned counsel also submits that, due to the confiscation of the vehicle, the petitioner is unable to earn her livelihood.

6. It is further submitted that the petitioner was registered owner of the said vehicle and no offence was committed by her, therefore, no chargesheet was submitted against her. The registration certificate and insurance documents of the said vehicle have been kept by the police on the date of incident. However, there is no dispute that the petitioner is the sole registered owner of the vehicle. During the proceedings before the District Magistrate, no other person claimed ownership of the vehicle. It is also submitted that by keeping the vehicle at the police station for a long time, it may diminish its value and ultimately become junk.

7. It is also submitted by the learned counsel for the petitioner that the petitioner had filed his objection before the District Magistrate, Azamgarh; however, the same was not considered, and his aforesaid vehicle was confiscated by the District Magistrate, Azamgarh, vide order dated 15.05.2025.

8. Being aggrieved by the order dated 15.05.2025, the petitioner filed a revision before the Commissioner, Azamgarh, which was subsequently

treated as Case No. 2469 of 2025. The said revision was also dismissed by the Commissioner, vide order dated 21.01.2026. The merits of the case were not considered by the Commissioner, and the case/revision filed by the petitioner was wrongly dismissed.

9. Being aggrieved by the aforesaid orders dated 15.05.2025 and 21.01.2026, the petitioner has filed the present writ petition before this Court for release of her Vehicle/Pickup No. UP 50 DT 5298 confiscated by the District Magistrate under sub-section (7) of Section 5-A of the U.P. Prevention of Cow Slaughter (Amendment) Act, 2020.

10. Reliance has been placed on a decision of the Apex Court in the case of **Sunderbhai Ambalal Desai Versus State of Gujarat 2003 (46) ACC 223 (SC)**, wherein it was held that in our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

11. Learned A.G.A. opposed the prayer and stated that there is no illegality in the impugned orders and the District Magistrate was authorized to confiscate the vehicle under sub-section (7) of Section 5-A of the U.P. Prevention of Cow Slaughter (Amendment) Act, 2020. It is further submitted that the present petition is not maintainable.

12. I have heard both the parties and perused the record.

13. Admittedly, the present petitioner is the owner of the said vehicle. No other person claimed the ownership of the vehicle in question. The driver of the petitioner has obtained bail in the aforesaid case. The petitioner is not an accused in the present case.

14. The Act, 1955, is an Act to prevent the slaughter of cow and its progeny in the State of Uttar Pradesh. Section 5-A of the Act, 1955, is reproduced as hereunder :

"5-A. Regulation on transport of cow, etc. - (1) No person shall transport or offer for transport or cause to be transported any cow, or bull or

bullock, the slaughter whereof in any place in Uttar Pradesh is punishable under this Act, from any place within the State to any place outside the State, except under a permit issued by an officer authorised by the State Government in this behalf by notified order and except in accordance with the terms and conditions of such permit.

(2) Such officer shall issue the permit on payment of such fee not exceeding [five hundred rupees] for every cow, bull or bullock as may be prescribed :

Provided that no fee shall be chargeable where the permit is for transport of the cow, bull or bullock for a limited period not exceeding six months as may be specified in the permit.

(3) Where the person transporting a cow, bull or bullock on a permit for a limited period does not bring back such cow, bull or bullock into the State within the period specified in the permit, he shall be deemed to have contravened the provision of sub-section (1).

(4) The form of permit, the form of application therefor and the procedure for disposal of such application shall be such as may be prescribed.

(5) The State Government or any officer authorised by it in this behalf by general or special notified order, may, at any time, for the purpose of satisfying itself, or himself, as to the legality or propriety of the action taken under this section, call for and examine the record of any case and pass such orders thereon as it or he may deem fit].

(6) Where the said conveyance has been confirmed to be related to beef by the competent authority or authorised laboratory under this Act, the driver, operator and owner related to transport, shall be charged with the offence under this Act, unless it is not proved that the transport medium used in crime, despite all its precautions and without its knowledge, has been used by some other person for causing the offence.

(7) The vehicle by which the beef or cow and its progeny is transported in violation of the provisions of this Act and the relevant rules, shall be confiscated and seized by the law enforcement officers. The concerned District Magistrate/Commissioner of Police will do all proceedings of

confiscation and release, as the case may be.

(8) The cow and its progeny or the beef transported by the seized vehicle shall also be confiscated and seized by the law enforcement officers. The concerned District Magistrate/ Commissioner will do all proceedings of the confiscation and release, as the case may be.

(9) The expenditure on the maintenance of the seized cows and its progeny shall be recovered from the accused for a period of one year or till the release of the cow and its progeny in favour of the owner thereof whichever is earlier.

(10) Where a person is prosecuted for committing, abetting, or attempting to an offence under Sections 3, 5 and 8 of this Act and the beef or cow-remains in the possession of accused has been proved by the prosecution and transported things are confirmed to be beef by the competent authority or authorised laboratory, then the Court shall presume that such person has committed such offence or attempt or abetment of such offence, as the case may be, unless the contrary is proved.

(11) Where the provisions of this Act or the related rules in context of search, acquisition, disposal and seizure are silent, the relevant provisions of the Code of Criminal Procedure, 1973 shall be effective thereto."

15. Section 5-A of the Act, 1955, authorizes the law enforcement officers to seize any vehicle by which the beef or cow and its progeny is transported in violation of the provisions of the Act and the rules made thereunder. The District Magistrate/Commissioner of Police is authorised to do all proceedings of confiscation and release, as the case maybe.

16. As per Section 5-A (1) above, no person shall transport or offer for transport or cause to be transported any cow, or bull or bullock, the slaughter whereof in any place in Uttar Pradesh is punishable under this Act, from any place within the State to any place outside the State, except under a permit issued by an officer authorised by the State Government and as per sub-clause (7) of Section 5-A, the vehicle, by which the beef or cow and its progeny is being transported in violation of the provisions of

this Act and the relevant rules, shall be confiscated and seized by the law enforcement officer. The concerned District Magistrate/ Commissioner of Police will do all the proceedings of confiscation and release, as the case may be.

17. Admittedly, by impugned order dated 21.01.2026, the Commissioner, Azamgarh dismissed the revision filed by the petitioner.

18. Admittedly, no beef was found inside the vehicle, there is nothing on record to show that these cows or its progeny were being smuggled for slaughtering. No instrument used for slaughter was found in the vehicle. Thus, in the opinion of the Court, mere transportation of the cows or its progeny within the State cannot be said to be an offence. Similar view was expressed by the Co-ordinate Bench of this Court in **Kaliya Versus State of U.P. Thru. Prin. Secy. Deptt. Of Home Lko And Others, 2023 0 Supreme (All) 1325**, wherein when the cows or its progeny were found transported within the State, the requirement of permit was denied and the order of the District Magistrate and the confiscation order of the Revisional Court were found bad in law and were set aside.

19. So far as the maintainability of the writ petition is concerned, reference may be made to the judgment of the Apex Court in **Dhariwal Tobacco Products LTD. and Others Vs. State of Maharashtra and Another, (2009) 64 ACrC 962**, wherein the Apex Court held that the remedy under Section 482 Cr.P.C or Article 226/227 of the Constitution cannot be curtailed merely because the alternative remedy is also available. The alternate remedy is no bar to invoke power under Article 226/227 of the Constitution or 482 of Cr.P.C. or 528 B.N.S.S., thus, the objection of the learned A.G.A. fails.

20. As the vehicle of the petitioner is stationed since last more than one and a half year year in the open premises of the police station concerned and is kept unattended and is becoming junk day by day, so as per the judgment of **Sunderbhai Ambalal Desai (supra)**, the prayer of release of the vehicle concerned is allowed.

21. The writ petition is, thus, **allowed**. Impugned order dated 21.01.2026 passed by the Commissioner, Azamgarh and impugned order dated

15.05.2025 passed by the District Magistrate, Azamgarh, are, hereby, **quashed.**

22. Let the Vehicle/Pickup No.UP 50 DT 5298 confiscated by the District Magistrate, Azamgarh, vide order 15.05.2025 be released in favour of the owner/petitioner subject to furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

1. The petitioner shall not dispose of the vehicle during pendency of the case.
2. The petitioner shall not change the nature of the vehicle during pendency of the case.
3. The petitioner shall produce the vehicle before the court concerned as and when directed by the court at his own expense.

(Vivek Kumar Singh,J.)

March 24, 2026

A.P. Pandey