

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Revision No. 535 of 2025

Md. Aftab, son of Md. Azim, aged about 29 years, resident of Village Rayeen Mohalla, Near Rayeen Masjid, Hindpiri, P.O. G.P.O., P.S. Kotwali, District- Ranchi
... Petitioner

-Versus-

1. The State of Jharkhand
2. The Senior Superintendent of Police, Ranchi, P.O. & P.S. Ranchi, District- Ranchi
3. The Officer In-charge, Tamar Police Station, Tamar, P.O. & P.S. Tamar, District- Ranchi
... Opposite Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. Deepak Kumar Prasad, Advocate
For the State : Mr. Bhola Nath Ojha, Spl.P.P.

04/08.10.2025 Heard Mr. Deepak Kumar Prasad, learned counsel appearing for the petitioner and Mr. Bhola Nath Ojha, learned counsel appearing for the State.

2. This criminal revision petition has been preferred for setting-aside the order dated 09.01.2025 passed by the learned A.J.C.-VIII-cum-Spl. Judge, NDPS, Ranchi in Misc. Criminal Application No.2974/2024 (arising out of NDPS Case No.56/2022, Tamar P.S. Case No.53/2022), whereby, the application filed by the petitioner for release of the pick-up van under Section 451 of the Cr.P.C., corresponding to Section 497 of the Bharatiya Nagrik Suraksha Sanhita was rejected, pending in the Court of the learned A.J.C.-VIII-cum-Spl. Judge, NDPS, Ranchi.

3. Learned counsel appearing for the petitioner submits that the petitioner has not committed any offence. He further submits that the petitioner has been arrested in the case by the police and subsequently, he has been released on regular bail by the order of the Coordinate Bench of

this Court in B.A. No.3960 of 2023, dated 06.06.2023. He then submits that the petitioner is having Diploma degree in Mechanical Engineering from Satya Sai University of Technology & Medical Sciences, Sehore (Madhya Pradesh). He next submits that the petitioner has purchased Mahindra Bolero Pick-up Van from Mahindra Finance with EMI of Rs.20,600/- per month. He also submits that the petitioner is the registered owner of the vehicle No. JH-01EQ-2669 registered with the District Transport Office, Ranchi. He further submits that the petitioner is the owner and he was travelling in the said pick-up van and in view of that, he has been made an accused. He next submits that the said vehicle is seized on the allegation under Narcotics Drugs and Psychotropic Substances Act and the same is kept in open space and is deteriorating day-by-day. To buttress this argument, he refers photographs of the vehicle annexed with this criminal revision petition, contained in Annexure-5. He also submits that even the battery of the said vehicle has been removed. According to him, the petitioner is still paying EMIs and he is facing difficulty in paying EMI, whereas, the vehicle in question is seized. He submits that Sub-section (3) of Section 60 of the NDPS Act will come into play once the trial will be over and then only the vehicle can be confiscated. He further submits that with certain conditions, the vehicle, even if involved in the NDPS crime, can be released. He further submits that the learned Court has been pleased to reject the prayer to release the vehicle considering rigor of NDPS Act. On these grounds, he submits that the vehicle may kindly be released.

4. Learned counsel appearing for the State opposed the prayer and submits that the petitioner is the owner of the said vehicle and he was

apprehended on the spot and in view of that, the vehicle may not be released. He further submits that the vehicle in question is the material evidence and in view of that, the vehicle is required to be kept.

5. On query made by the Court to the learned counsel appearing for the State with regard to deterioration of the vehicle, he submits that it appears that the vehicle is lying in open space.

6. In view of the above submissions of the learned counsel for the parties, it is an admitted position that the vehicle in question has been seized with contraband. The petitioner was found to be seated in the said vehicle. The question of confiscation in light of Sub-section (3) of Section 60 of the NDPS Act will come into play once the trial is over. Looking into the photographs annexed with the present petition, it transpires that the vehicle in question is parked in open space and it is deteriorating day-by-day. The documents annexed with this petition clearly suggests that the petitioner has taken the said vehicle on loan and he is paying EMI of Rs.20,600/- per month.

7. There is no doubt that release of the vehicle arising out of NDPS Act is required to be considered with caution. Recently the Hon'ble Supreme Court has dealt with this aspect of the matter in the case of ***Bishwajit Dey v. State of Assam***, reported in ***(2025) 3 SCC 241***, wherein, four conditions have been assessed by the Hon'ble Supreme Court; in first two of the situations, the Hon'ble Supreme Court has held in that case that the vehicle may not be released and so far as remaining two conditions are concerned, the Hon'ble Supreme Court has held that the vehicle can be released. In the said judgment, the Hon'ble Supreme Court has also clarified in paragraph 35

to the effect that the discussions made therein should not be taken as laying down a rigid formula as it will be open to the trial courts to take a different view, if the facts of the case so warrant.

8. The petitioner herein is paying EMI of the said vehicle and the condition of the vehicle is being deteriorated day-by-day. There is no doubt that the vehicle is a critical piece of material evidence that may be required for inspection to substantiate the prosecution's case, however, the said requirement can be met by stipulating conditions while releasing the vehicle in interim on sufficient surety like videography and still photographs to be authenticated by the investigating officer, the owner of the vehicle and accused by signing the said inventory as well as restriction on sale/transfer of the vehicle and that observation has been made by the Hon'ble Supreme Court in paragraph 32 of the judgment passed in the case of ***Bishwajit Dey v. State of Assam (supra)***.

9. In the case of ***Sunderbhai Ambalal Desai v. State of Gujarat***, reported in ***(2002) 10 SCC 283***, the Hon'ble Supreme Court has held in paragraphs 5 and 17 as under:

"5. Section 451 clearly empowers the court to pass appropriate orders with regard to such property, such as:

(1) for the proper custody pending conclusion of the inquiry or trial;

(2) to order it to be sold or otherwise disposed of, after recording such

(3) If the property is subject to speedy and natural decay, the dispose of the same.

xxx xxx xxx

"17. 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."

10. In view of the above and considering that the petitioner has taken vehicle on loan and he is having Diploma degree in Mechanical Engineering and the said vehicle is deteriorating day-by-day as it is parked in open space and further considering that so far as Sub-section (3) of Section 60 of the NDPS Act is concerned, that will come into play once the trial is concluded, the Court is inclined to release the vehicle of the petitioner. Accordingly, the order dated 09.01.2025 passed by the learned A.J.C.-VIII-cum-Spl. Judge, NDPS, Ranchi in Misc. Criminal Application No.2974/2024 (arising out of NDPS Case No.56/2022, Tamar P.S. Case No.53/2022) is, hereby, set-aside. The vehicle in question shall be released in favour of the petitioner on his undertaking on the following terms and conditions:

- (i) The petitioner shall furnish an indemnity bond to the satisfaction of the learned Court;
- (ii) One of the surety must be a resident and owner of a commercial vehicle of District- Ranchi;
- (iii) The petitioner shall not sale, mortgage or transfer the ownership of the vehicle on hire purchase agreement or mortgage or in any manner;
- (iv) The petitioner shall not change or tamper with the identification of the vehicle in any manner;
- (v) The petitioner shall produce the vehicle as and when directed by the Trial Court; and
- (vi) The videography and still photography of the said vehicle will be made at the time of release, which will also be signed by the investigating officer as well as the petitioner.

11. The Trial Court is at liberty to impose any other terms and conditions which the Trial Court deems fit and proper. The Trial Court will not insist for bank guarantee and cash guarantee.

12. Accordingly, this criminal revision petition is allowed and disposed of.

(Sanjay Kumar Dwivedi, J.)

Dated: 8th October, 2025
*Ajay/ **A.F.R.***