



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.127 of 2026

Biswajit Bagarty

...

Petitioner

Mr. S. Dwibedi, Advocate

-versus-

State of Orissa

....

Opposite Party

Mr. S. Panigrahi, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

25.03.2026

Order No.

03.

1. Heard learned counsel for the Petitioner and learned counsel for the State.

2. This criminal revision has been preferred assailing the order dated 28.01.2026 passed by the learned District and Sessions Judge, Mayurbhanj, Baripada in CMC No. 573 of 2025 arising out of C.T. Case No.56 of 2025 whereby the prayer of the Petitioner for release of his vehicle (Maruti Suzuki Dezire bearing Regd. No.OD-02-CZ-1157, Chassis No.MA3CZFB3SRK940157, Engine No.K12NN1130427 stated to be involved in an offence under Section 20(b)(ii)(C) of N.D.P.S. Act in Bangiriposi P.S. Case No.271 of 2025 has been rejected.

3. At the outset learned counsel for the Petitioner submits that in the case at hand the charge sheet was filed after the impugned order was passed by the learned District and Sessions Judge, Mayurbhanj,



Baripada i.e. on 18.03.2026, wherein the Petitioner has not been cited as accused. The said final form is on record.

4. On perusal of the impugned order, it is seen that the learned District and Sessions Judge, Mayurbhanj, Baripada, while referring to the judgment of his Court in **Jitendra Kumar Digal Vrs. State of Odisha**, reported in **(2021) 81 OCR-625**, more particularly paragraphs 17 and 18 thereof, rejected the prayer for release.

5. Learned counsel for the Petitioner places reliance on the latest judgment of the Apex Court in the case of **Denash Vrs. State of TamilNadu**, reported in **(2025) SCC Online SC 2276**, wherein referring to the its earlier dictum in the case of **Bishwajit Dey Vrs. State of Assam, (2025) 3 SCC 241**, the law has been settled that the mere fact that the vehicle may be liable for confiscation under Section 60 of the NDPS Act cannot itself act as a Bar to deny interim custody to bona fide owner, in the light of there being no express bar under the NDPS Act.

For convenience of reference Section 60 of the NDPS Act is culled out hereunder:

"Section 60. Liability of illicit drugs, substances, plants, articles and conveyances to confiscation.—[(1) Whenever any offence punishable under this



Act has been committed, the narcotic drug, psychotropic substance, controlled substance, opium poppy, coca plant, cannabis plant, materials, apparatus and utensils in respect of which or by means of which such offence has been committed, shall be liable to confiscation.

(2) Any narcotic drug or psychotropic substance or controlled substances] lawfully produced, imported inter-State, exported inter-State, imported into India, transported, manufactured, possessed, used, purchased or sold along with, or in addition to, any narcotic drug or psychotropic substance or controlled substances] which is liable to confiscation under sub-section (1) and the receptacles, packages and coverings in which any narcotic drug or psychotropic substance or controlled substances], materials, apparatus or utensils liable to confiscation under sub-section (1) is found, and the other contents, if any, of such receptacles or packages shall likewise be liable to confiscation.

(3) Any animal or conveyance used in carrying any narcotic drug or psychotropic substance or controlled substances, or any article liable to confiscation under sub-section (1) or sub-section (2) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal or conveyance and that



each of them had taken all reasonable precautions against such use.”

6. On a conspectus of materials on record and taking into account the law referred to hereinabove, the impugned order is set aside. The vehicle in question shall be released in favour of the Petitioner on terms to be settled by the learned Court in seisin.

7. Accordingly, the CRLREV stands disposed of.

(V. NARASINGH)
Judge

Soumya