

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

S.B. Criminal Miscellaneous (Petition) No. 3170/2026

CNR: RJHC010376122026

URN: CRLMP / 5676U / 2026

Ranjeet Singh S/o Sukhmendra Singh, Aged About 60 Years,
Resident Of Patraliya, Tehsil- Hosiyarpur District Hosiyarpur
(Punjab) Through Power Of Attorney Holder Gurdev Kaur W/o
Gurbux Singh, Aged 73 Years, Resident Of Baghedi, Tehsil-
Dasua, District Hosiyarpur (Punjab)

----Petitioner

Versus

State Of Rajasthan, Through, Its P.p

----Respondent

For Petitioner(s) : Mr. B.R. Chahar

For Respondent(s) : Mr. Vikram Rajpurohit, PP

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

17/07/2026

1. The present criminal misc. petition under Section 528 BNSS has been filed by the petitioner being aggrieved of order dated 07.04.2026, whereby the application filed by the petitioner for the release of vehicle under Section 497/503 of BNSS has been rejected.

2. Counsel for the petitioner submits that in the present case, the truck in-question was transporting Tiles vide e-way bill, as per which, said Truck was transporting Tiles from Bhilwara to Kashmir. It is stated that during checking at Deedwana, 6.100 Kg Poppy Straw was allegedly recovered from the Driver, whereupon a case vide FIR No.16/2026 was registered at Police Station Maulasar,

District Deedwana-Kuchaman for the offence under Sections 8/15, 25 of NDPS Act.

3. It was argued by learned counsel that the petitioner is a bonafide Transporter and Truck No.PB-06BD-6767 was transporting goods i.e. Tiles. It is stated that if the Driver has carried 6.100 Kg of Poppy Straw, then it cannot be said that owner of Truck had any knowledge about the same. It is not the case of the prosecution that the truck was involved in transporting contraband but instead the truck was transporting Tiles vide e-way bill, which is also placed on record of Rs.231105.00. Poppy Straw was recovered from the possession of Driver, hence, under such circumstance for the wrong committed by the Driver, the petitioner, who is owner and bonafide Transporter cannot be attributed to have the knowledge of such illegal transportation of contraband inside the truck by the Driver.

4. Furthermore, it is also seen that the contraband recovered is 6.100 Kg of Poppy Straw, which is below the commercial quantity, and it cannot be ruled out that the said contraband might have been procured by the Driver for his personal consumption.

5. Counsel for the petitioner submits that petitioner has falsely been implicated. He is registered owner of the vehicle. He submits that being Truck owner & transporter the petitioner neither had any knowledge of the said fact nor any contraband was recovered from him.

6. He states that being registered owner of Truck, need to pay due installments and further no purpose would be served by keeping the vehicle parked at police station for indefinite period,

as trial of case of case will certainly take a long time and that would cause loss to him as vehicle will deteriorate and turn into junk/scrap with the passage of time.

7. Counsel for the petitioner has relied upon catena of judgments passed by Hon'ble Apex Court while submitting that his case falls within the categories wherein the vehicle should be released.

8. Learned Public Prosecutor opposed the prayer and states that no case for release of vehicle is made out in favour of the petitioner since contraband has been recovered from the vehicle.

9. Heard learned counsel for the parties and perused the record.

10. Hon'ble Apex Court in **Sunderbhai Ambalal Desai Vs. State of Gujarat; (2002) 10 SCC 283** has held that valuable vehicles and articles must not be permitted to be languished in police custody for a long period exposed to elements, and directed that interim release of such vehicles/articles should be ordered subject to appropriate bond/guarantee for the same.

11. The aforesaid view was reiterated by Hon'ble the Apex Court in **Sainaba Vs. State of Kerala & Ors.; (2024) 13 SCC 382** whereby it was held that wasting assets particularly vehicles, must be preserved by entrusting custody to the rightful owner.

12. Recently Hon'ble Supreme Court considered release of vehicle seized under NDPS Act in **Denash Vs. The State of Tamil Nadu, reported in (2025) INSC 1258**. Hon'ble Apex Court while considering the judgment rendered in **Bishwajit Dey Vs. State of Assam**, reported in **2025 INSC 31** held that where

contraband is being carried without knowledge of owner, the vehicle could be released on interim custody. Hon'ble Supreme Court observed as under :-

"34. Although, on a superficial reading, the present case might appear to fall within the second scenario delineated in *Bishwajit Dey* (supra), where contraband is recovered from the owner's agent (driver) who is arrayed as an accused, however, the application of criminal law cannot be reduced to a rigid or mechanical formula. Each case must be examined in light of its peculiar facts and circumstances. In the present matter, a holistic consideration of the record reveals that the facts do not align strictly with the said category for the following reasons: -

- i- Firstly, the appellant is the lawful owner with valid documents, and the vehicle was commercially engaged in transporting a valuable consignment of 29,400 MT of iron sheets. It is highly improbable to believe that he would risk both the costly vehicle and the high value consigned goods and his business goodwill by knowingly allowing narcotics to be transported along with the cargo.
- ii- Secondly, the contraband, i.e., 6 kilograms of Ganja was recovered from the four chargesheeted accused persons.
- iii- Thirdly, the appellant was not arraigned as an accused and the chargesheet contains no material suggesting that the appellant had knowledge of or connived in the offence.
- iv- It can thus, safely be presumed that the said contraband must have been procured by the drivers and/or the khalasis without the knowledge or connivance of the appellant.

35. In view of the above, while the present case may technically correspond to the second scenario as enumerated in paragraph 29 of **Bishwajit Dey** (supra), the peculiar factual matrix warrants a more pragmatic approach. It would, therefore, be expedient in the interest of justice to grant interim custody of the vehicle to the appellant, as the overall circumstances clearly indicate his bonafides and absence of any involvement in the drugs being carried in the vehicle.

36. In wake of the discussion made hereinabove, the appeal deserves to succeed. The impugned judgment dated 20th

December, 2024 passed by the High Court is accordingly set aside. The vehicle bearing Registration No. TN 52 Q 0315 shall be released on supurdagi to the appellant on such terms and conditions, which the Special Court may impose. "

13. The case is hand is squarely covered by the ratio laid down by the Hon'ble Apex Court in ***Denesh Vs. State of Tamil Nadu*** (supra). In the present case as well the recovery of the contraband is only 6.100 Kg of Poppy Straw and the truck of the petitioner was transporting Tiles and hence it was involved in bonafide transportation of goods. It is highly unlikely that the petitioner would jeopardize his bonafide transport business knowingly by permitting transportation of contraband article with Cargo. Admittedly, nothing has been recovered from the petitioner and the same was recovered from the Driver and hence it can be safely presumed that the contraband must have been procured by the Driver or the "Khalashi' without knowledge or connivance of the petitioner. Therefore, keeping the vehicle in custody would definitely lead to its deterioration and would ultimately serve no purpose.

14. In view of the above, the criminal misc. petition is hence, allowed. Order dated 07.04.2026 is set aside.

15. The vehicle in question is directed to be released in favour of the petitioner on interim custody till conclusion of the trial, provided he furnishes a Supurdaginama of Rs.1,00,000/- and one surety in the like amount to the satisfaction of learned Special Court. The petitioner shall further abide by the conditions stipulated by the learned Special Court regarding production of the

vehicle, non-alienation thereof, preservation of its identity and such other conditions as may be considered necessary to secure its availability during trial. In addition thereto, the following conditions shall also be complied with:-

- (i) Before release of the vehicle, the Investigating Officer shall prepare a detailed inventory thereof and shall get videography and coloured photographs of the vehicle from all angles, including its engine number, chassis number and registration number, duly authenticated by the Investigating Officer and the petitioner.
- (ii) The petitioner shall not sell, transfer, alienate, create any third-party interest, alter, dismantle or change the identity or nature of the vehicle in any manner during the pendency of the trial without prior permission of the learned trial Court.
- (iii) The petitioner shall keep the vehicle in proper roadworthy condition and shall not make any alteration affecting its identification.
- (iv) The petitioner shall produce the vehicle before the learned trial Court or the Investigating Agency as and when directed during the pendency of the proceedings.
- (v) In the event of breach of any of the aforesaid conditions or failure to produce the vehicle as directed, it shall be open to the prosecution to seek cancellation of the interim custody and forfeiture of the Supurdaginama, surety and Bank Guarantee/FDR, in accordance with law.

(vi) The observations made herein are confined to adjudication of the present petition for interim release of the vehicle and shall not be construed as an expression on the merits of the criminal case.

16. Stay petition and pending applications, if any, also stand disposed of.

(BALJINDER SINGH SANDHU),J