

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

S.B. Criminal Revision Petition No. 689/2026

Vishnaram S/o Sundaram, Aged About 39 Years, R/o Aekalkhori,
Police Station Osiya, District Jodhpur, At Present House No 373B
Sector Vivek Vihar, Police Station Vivek Vihar, District Jodhpur,
Rajasthan.

----Petitioner

Versus

State Of Rajasthan through PP

----Respondent

For Petitioner(s)	:	Mr. Bhagirath Ray Bishnoi
For Respondent(s)	:	Mr. Shri Ram Choudhary, Public Prosecutor

HON'BLE MS. JUSTICE REKHA BORANA
Order

01/05/2026

1. By way of filing of the instant criminal revision petition, challenge has been made to order dated 24.02.2026 passed by Special Judge, NDPS Act Cases, No.1, Jodhpur Metropolitan in Criminal Misc. Application No.136/2026 (NCV No.38/2026) whereby application under Section 503, BNSS as filed by the petitioner for *Supurdgi* of vehicle in question, stood rejected.
2. Counsel for the petitioner submits that he is the registered owner of the vehicle in question which has been seized by the Police. He submits that the learned Trial Court while relying upon the Apex Court judgment in ***Bishwajit Dey Vs. State of Assam; AIR 2025 SC 549***, erroneously observed that the petitioner being the registered owner of the vehicle in question from which the contraband was recovered, is not entitled for release of the same.

3. Counsel further submits that the learned Trial Court erroneously interpreted the ratio laid down in ***Bishwajit Dey*** (supra). While relying upon Para 22 of the judgment, he submits that therein, the Hon'ble Apex Court has not held that there is any bar under the Narcotic Drugs and Psychotropic Substances Act, 1985 for return/release of any seized vehicle used for transporting narcotic drugs or psychotropic substances. It was rather held that there is no such specific bar/restriction.

4. Per contra learned Public Prosecutor submits that the petitioner being the registered owner of the vehicle in question, being falling under First Scenario as categorized by Hon'ble the Apex Court in ***Bishwajit Dey*** (supra), is not entitled to get the vehicle released in his favour.

5. Heard the Counsels. Perused the record.

6. In ***Sunderbhai Ambalal Desai Vs. State of Gujarat; (2002) 10 SCC 283***, Hon'ble the Apex Court 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.

7. 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.

8. So far as the judgment in ***Bishwajit Dey*** (supra) is concerned, therein Hon'ble the Apex Court held as under:

"22. This Court is further of the opinion that there is no specific bar/restriction under the provisions of the NDPS Act for return of any seized vehicle used for transporting narcotic drug or psychotropic substance in the interim pending disposal of the criminal case.

23. In the absence of any specific bar under the NDPS Act and in view of Section 51 of NDPS Act, the Court can invoke the general power under Sections 451 and 457 of the Cr.P.C. for return of the seized vehicle pending final decision of the criminal case. **Consequently, the trial Court has the discretion to release the vehicle in the interim. However, this power would have to be exercised in accordance with law in the facts and circumstances of each case."**

The Court further held as under :

"28. Undoubtedly, the Vehicle is a critical piece of material evidence that may be required for inspection to substantiate the prosecution's case, yet the said requirement can be met by stipulating conditions while releasing the Vehicle in interim on superdari like videography and still photographs to be authenticated by the Investigating Officer, owner of the Vehicle and accused by signing the said inventory as well as restriction on sale/transfer of the Vehicle."

9. Coming to the ratio as relied upon by the learned Trial Court, the judgment itself lays down that the said discussion 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 so warrant.

10. Most importantly, in **Bishwajit Dey** (supra) in concluding paras, the Hon'ble Apex Court opined as under :

"34. This Court is also of the view that if the Vehicle in the present case is allowed to be kept in the custody of police till the trial is over, it will serve no purpose. This Court takes judicial notice that vehicles in police custody are stored in the open. Consequently, if the Vehicle is not released during the

trial, it will be wasted and suffering the vagaries of the weather, its value will only reduce.

35. *On the contrary, if the Vehicle in question is released, it would be beneficial to the owner (who would be able to earn his livelihood), to the bank/financier (who would be repaid the loan disbursed by it) and to the society at large (as an additional vehicle would be available for transportation of goods)."*

11. Taking into consideration the clarification as provided by the Hon'ble Apex Court and further the ratio as laid down in ***Sunderbhai Ambalal Desai*** (supra), this Court is of the opinion that keeping the vehicle in police custody would definitely lead to its deterioration. Further, keeping into consideration the fact that the trial in question would take a considerable time to complete, keeping the vehicle in question in police custody would serve no purpose.

12. The revision petition is hence, **allowed**. Order dated 24.02.2026 is set aside.

13. The vehicle in question is directed to be released in favour of the petitioner on terms and conditions to be determined by the Special Court including interim custody till conclusion of the trial provided he furnishes a *Supurdaginama* of Rs.50,000/- and surety of like amount to the satisfaction of the Court below.

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

(REKHA BORANA),J