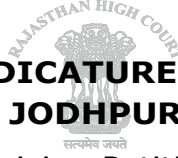




**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**



S.B. Criminal Revision Petition No. 713/2026

Mahendra Singh S/o Shri Nakhat Singh, Aged About 29 Years,
R/o Betina, P.s. Sankada, District Jaisalmer

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Prem Khileri with Mr. Anirudh Bhati
For Respondent(s)	:	Shri Ram Choudhary, PP

HON'BLE MS. JUSTICE REKHA BORANA

Order

04/05/2026

1. The present revision petition has been filed aggrieved of order dated 18.03.2026 passed by Special Judge (NDPS Act Cases), Jaisalmer, District Jaisalmer (hereinafter referred to as the 'learned Trial Court') in Criminal Application No.30/2026 arising out of FIR No.08/2026 whereby application under Section 503, BNSS as filed on behalf of the applicant Mahendra Singh for release of the vehicle (*Supurdagi*), stood rejected.

2. The learned Trial Court while rejecting the application observed that the vehicle in question was seized by the Investigating Authority, the same being involved in the illegal trafficking of the contraband. The Court, while relying upon the Apex Court judgment in ***Bishwajit Dey Vs. State of Assam; AIR 2025 SC 549***, held that the petitioner himself was the registered owner of the vehicle in question which was used for



supply/sale of the contraband and hence, is not entitled for release of the same.

3. Counsel for the petitioner submits that admittedly, the alleged contraband was recovered from the house of one Hanuman Singh and not from the vehicle in question. Further, it is only on the alleged information of one of the accused Chain Singh, that the vehicle in question has been seized. The petitioner being the innocent owner of the vehicle, deserves to be handed over the vehicle subject to the conditions to be imposed.

4. Per contra learned Public Prosecutor submits that the petitioner being the registered owner of the vehicle in question, is not entitled to get the vehicle released in his favour.

5. Heard the Counsels. Perused the record.

6. Before delving into the facts of the matter, this Court finds it essential to ascertain whether the reliance of the learned Trial Court on Hon'ble the Apex Court judgment of **Bishwajit Dey** (supra) was correct in the present matter. In **Bishwajit Dey**, Hon'ble the Apex Court while detailing out four scenarios arising out of the seizure of a vehicle from which the contraband is recovered, observed and held as under :

"Broadly speaking there are four scenarios

*29. Though seizure of drugs/substances from conveyances can take place in a number of situations, yet broadly speaking there are four scenarios in which the drug or substance is seized from a conveyance. **Firstly**, where the owner of the vehicle is the person from whom the possession of contraband drugs/substance is recovered. **Secondly**, where the contraband is recovered from the possession of the agent of*



*the owner i.e. like driver or cleaner hired by the owner. **Thirdly**, where the vehicle has been stolen by the accused and contraband is recovered from such stolen vehicle. **Fourthly**, where the contraband is seized/recovered from a third-party occupant (with or without consideration) of the vehicle without any allegation by the police that the contraband was stored and transported in the vehicle with the owner's knowledge and connivance. In the first two scenarios, the owner of the vehicle and/or his agent would necessarily be arrayed as an accused. In the third and fourth scenario, the owner of the vehicle and/or his agent would not be arrayed as an accused.*

30. This Court is of the view that criminal law has not to be applied in a vacuum but to the facts of each case. Consequently, it is only in the first two scenarios that the vehicle may not be released on superdari till reverse burden of proof is discharged by the accused-owner. However, in the third and fourth scenarios, where no allegation has been made in the charge-sheet against the owner and/or his agent, the vehicle should normally be released in the interim on superdari subject to the owner furnishing a bond that he would produce the vehicle as and when directed by the Court and/or he would pay the value of the vehicle as determined by the Court on the date of the release, if the Court is finally of the opinion that the vehicle needs to be confiscated.

31. This Court clarifies that the aforesaid 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 of the case so warrant."



7. A bare perusal of the above ratio makes it crystal clear that all the four scenarios as anticipated by Hon'ble the Apex Court pre-suppose the seizure of the contraband from the conveyance/vehicle. Evidently, in the present matter, the contraband has not been recovered from any conveyance/vehicle but has been recovered from the house of accused Hanuman Singh. The vehicle in question has been seized only on the oral information given by co-accused Chain Singh to the effect that he used the said vehicle for the transportation of the contraband.

8. In that event, this Court is of the clear opinion that the ratio as laid down in **Bishwajit Dey** (supra) would not even apply in the present matter. Further, even if it is assumed to apply, the present case definitely would fall under the scenario wherein the owner cannot essentially be concluded to have knowledge about the transportation of any contraband at this stage.

9. This Court is of the opinion that the ratio as laid down in **Sunderbhai Ambalal Desai Vs. State of Gujarat; (2002) 10 SCC 283** would apply in the present matter, wherein the Hon'ble Apex Court held as under :

*"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. The above view was reiterated by Hon'b'le the Apex Court in ***Sainaba Vs. State of Kerala & Ors.; (2024) 13 SCC 382*** and further in ***Kana Ram Vs. State of Rajasthan; (2005) 12 SCC 318*** wherein it was held that wasting assets, particularly vehicles, must be preserved by entrusting custody to the rightful owner.

11. In view of the above analysis and the overall scenario, 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 time to complete, keeping the vehicle in question in police custody would serve no purpose.

12. The revision petition is hence, **allowed**. Order dated 18.03.2026 is hereby quashed and 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, stand **disposed of**.

(REKHA BORANA),J