

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

S.B. Criminal Miscellaneous (Petition) No. 3520/2026

Rup Lal S/o Nagjiram, Aged About 45 Years, R/o Dola Ka Kheda
P.s. Shambhupura Dist.bhilwara

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. The Mines And Minerals, Department Through Aag

-----Respondents

For Petitioner(s)	:	Mr. Bhawnesh Kachhwaha Mr. Neeraj Kumar Gurjar
For Respondent(s)	:	Mr. Anurag Jyani for Mr. Mahaveer Bishnoi, AAG

HON'BLE MR. JUSTICE SUNIL BENIWAL

Order

04/05/2026

1. This criminal miscellaneous petition has been filed under Section 528 of the BNSS, challenging the order dated 28.04.2026 passed by the learned Judicial Magistrate, Asind, District Bhilwara, whereby the application preferred by the petitioner for release of the vehicle (Dumper Ashok Leyland, registration No. RJ-06-GE-8754), seized in connection with FIR No. 57/2026 registered at Police Station Asind, District Bhilwara, for offences under Sections 303(2) of the BNS, 2023 and Section 4/21 of the Mines and Minerals (Development and Regulation) Act, 1957, was allowed, however, certain conditions were imposed and the petitioner was ordered to deposit a bank guarantee of Rs.5,00,600/- and to furnish a bond of Rs.50,00,000/- subject to the condition that until

the final disposal of the case the petitioner shall not alienate the vehicle in question.

2. The brief facts of the case are that the petitioner is the owner of the vehicle (Dumper) bearing the aforementioned registration number, which was unlawfully detained by Police Station Asind on false allegations of illegal transportation and storage of sand, and such information was subsequently forwarded to the Mining Department, Bhilwara; pursuant thereto, the competent authority of the Mining Department seized the petitioner's vehicle and kept it stationed in an open premises at Asind

2.1. Thereafter, the petitioner approached the learned court below by filing an application for release of the vehicle on *supurdginama*, which application was allowed vide order dated 28.04.2026 after hearing both the parties, however, certain onerous conditions were imposed, including the direction to deposit an amount as specified in the said order dated 28.04.2026. Being aggrieved by the imposition of such conditions in the impugned order, the petitioner has preferred the present miscellaneous petition before this Hon'ble Court.

3. At the outset, the learned counsel for the petitioner submits that the present petition may be disposed of in terms of the ratio given in the judgment rendered in ***Chaina Ram vs. State of Rajasthan (S.B. Criminal Misc. Petition No. 597/2024)***, decided on 19.05.2025. The relevant paragraphs of the said judgment are reproduced hereinbelow:

"6. Heard learned counsel for the parties. Perused the material available on record.

7. After hearing learned counsel for the parties and having perused the judgments of the coordinate Benches of this Court particularly in the cases of *Kishore Singh (supra)*, *Narayan Gadri (supra)* and *M/s Mahadev Construction (supra)*, this Court finds that the controversy involved in the present batch of criminal misc. petitions has already been set to rest and is no longer *res integra*. Therefore, the petitions in hand are to be decided in accordance with the parameters laid down in these judgments.
8. Consequently, it is held that under the mining laws, the state authorities have the powers for initiating confiscation proceedings in relation to the vehicles seized for violation of the mining laws. It is once, the confiscation proceedings are initiated, the vehicle cannot be released on *supurdaginama* as prayed by few of the petitioners. However, the said vehicles can only be released on payment of penalty and compounding fees. Whereas, the vehicles qua which no confiscation proceedings have yet been commenced, the competent criminal Court can handover interim custody of the vehicles to its true owner as a criminal Court is not supposed to keep a vehicle detained until the confiscation proceedings are commenced and concluded by the mining department.
9. It is however, made clear that in the cases where criminal Court had handed over interim custody of the vehicles to its true owners on *supurdaginama*, the mining department shall be free to pass confiscation orders and take back the vehicles in accordance with law.
10. The present batch of criminal misc. petitions is disposed of with liberty to the petitioners to approach the competent Court for filing fresh applications for release of their vehicle. The competent Court shall decide the fresh applications, if filed, in accordance with the observations made by this Court in para 8 of the judgment.
11. All pending applications stand disposed of accordingly.
12. A copy of this order be placed in each file."

4. *Per contra*, learned Public Prosecutor as well as learned counsel appearing for the Mining Department have vehemently opposed the petition, however, they are not in a position to dispute that the controversy involved in the present case is squarely covered by the ratio given in ***Chaina Ram (supra)***.

5. Accordingly, the impugned order dated 28.04.2026 is set aside and the instant criminal misc. petition is **disposed of** with a direction to the petitioner to approach the competent Court by way of filing a fresh application for release of his vehicle (Dumper) bearing registration No. RJ 06-GE-8754.

6. The competent Court shall decide the fresh application, if filed, in accordance with the observations made by this Court in para-8 of the order dated 19.05.2025 rendered in the case of ***Chaina Ram (Supra)***.

7. Stay application and all pending applications, if any, stand disposed of accordingly.

(SUNIL BENIWAL),J