

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No. 4014/2023

Aashiq Khan S/o Kallu Khan, R/o Gangdhar Police Station
Gangdhar, Distt. Jhalawar (Raj).

-----Petitioner

Versus

State of Rajasthan, through P.P.

-----Respondent

For Petitioner(s)	:	Mr. Ashir Khan for Mr. Aman Ali
For Respondent(s)	:	Mr. Narendra Singh Dhakar-PP

JUSTICE ANOOP KUMAR DHAND

Order

04/05/2026

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned order dated 23.05.2023, passed by the Court of Special Judge (NDPS Cases) and Additional Sessions Judge, Bhawanimandi, District Jhalawar by which the application submitted by the petitioner under Section 451 Cr.P.C., for getting *supurdagi* of the vehicle i.e. Motorcycle Bajaj Pulsor 125 bearing registration No. RJ17-BS-7559, has been rejected.
2. Learned counsel for the petitioner submits that the petitioner is the original owner/registered owner of the aforesaid vehicle and he has no concern whatsoever with the FIR No. 49/2023 registered against the accused person for the offences under Sections 8/21, 29 and 25 of the NDPS Act with the Police Station Dug, District Jhalawar. Counsel submits that the aforesaid bike of the petitioner was seized by the Investigating Officer as certain contraband was recovered from the possession of one of the

accused persons. Counsel submits that the investigation may take its own time to conclude but in the meantime, in case the subject vehicle is not released on *supurdagi* and continues to remain seized with the Police Station, then it would deteriorate. Hence, under these circumstances, interference of this Court is warranted.

3. Heard and considered the submissions made at Bar and perused the material available on record.

4. This Court on last occasion, directed the learned Public Prosecutor to get the status report of investigation conducted in FIR No. 49/2023 registered with the Police Station Dug, District Jhalawar for the offences punishable under Sections 8/21, 25 and 29 of the NDPS Act and about involvement of the petitioner in the aforesaid cases.

5. The factual report dated 20.07.2023, furnished by the SHO of Police Station Dug, District Jhalawar, has been received which indicates that the accused- Ajam Khan, took the aforesaid vehicle in question from the petitioner, and contraband was recovered from his possession. Thereafter, the aforesaid vehicle was handed over to another accused person. The role and involvement of the petitioner has not been found to be proved by the Investigating Officer.

6. The Hon'ble Apex Court in the case of **Bishwajit Dey Vs. State of Assam** reported in (2025) 3 SCC 241 has dealt with the issue involved in the instant petition and has held that there are broadly four scenarios/circumstances under which the cases involving the release of vehicle on *Supurdagi*, seized under the provisions of the NDPS are required to be dealt with.

7. All four scenarios/circumstances, as dealt with by the Hon'ble Apex Court in para 29 and 30 are reproduced for ready reference.

"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."

8. Looking to the fact that the instant case of the petitioner fails under the 3rd and 4th scenarios, as the petitioner has not been named in the impugned FIR and has not found to be an accused,

hence, under these circumstances, he is entitled to get *supurdagi* of the vehicle subject to the following conditions:-

- "a) That the petitioner shall keep the vehicle so released intact and shall not change its identification.
- b) That the petitioner shall produce the vehicle as and when trial court requires the same for proposed identification of the case properly.
- c) That the petitioner shall furnish the photographs of the vehicle in question showing its number and colour etc.
- d) At the time of release, the petitioner shall also give an undertaking to the effect that the vehicle in question shall not be used for any illegal purpose and if so found, the petitioner shall be personally liable.
- e) That the petitioner shall execute a *Supurdaginama*/indemnity bond and shall also furnish two surety bonds to the satisfaction of the Trial Court."

9. With the aforesaid observations and directions, the present criminal misc. petition stands allowed. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J