

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 8293/2024

Kewalram Son Of Gopilal, Aged About 38 Years, R/o Ekalkhori,
Police Station Osiya, District Jodhpur.

-----Petitioner

Versus

State of Rajasthan, through Public Prosecutor.

-----Respondent

For Petitioner(s)	:	Ms.Saroj Kumari Trivedi
For Respondent(s)	:	Mr.Jitendra Singh Rathore, 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 03.01.2014, passed by the Special Judge (N.D.P.S. Cases) & Additional Sessions Judge, Bhawanimandi, District Jhalawar, by which the application submitted by the petitioner under Section 451 Cr.P.C. for getting the custody/ *supurdagi* of the subject vehicle, i.e., Eicher Truck bearing registration No.RJ19-GD-8325, has been rejected.
2. Learned counsel for the petitioner submits that the petitioner is the registered owner of the subject vehicle, which was seized by the Police during the course of investigation of the F.I.R. No.119/2017 registered with the Police Station Bhawanimandi, District Jhalawar. Counsel submits that the subject vehicle was seized by the investigating authority more than 8 years ago and, if the subject vehicle is not released on *supurdagi*, the same would

be damaged. Hence, in light of the order dated 15.01.2025 passed by the Co-ordinate Bench of this Court in the case of **Ranjeet Singh Vs. State of Rajasthan** while deciding S.B. Criminal Misc. Petition No.201/2025, the subject vehicle be given to the petitioner on *supurdagi*, who happens to be the registered owner of the aforesaid vehicle.

3. *Per contra*, learned Public Prosecutor opposed the prayer and submitted that huge quantity, i.e., 1194 kg of opium doda chura, was recovered from the subject vehicle belonging to the petitioner and the petitioner is also one of the accused for the offence under Sections 8/15, 8/25 & 8/29 N.D.P.S. Act in the aforesaid F.I.R. Hence, under these circumstances, the petitioner is not entitled to get *supurdagi* of the aforesaid vehicle.

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

5. This fact is not in dispute that an F.I.R. No.119/2017 has been registered at the Police Station Bhawanimandi, District Jhalawar for the offence punishable under Sections 8/15, 8/25 and 29 of the N.D.P.S. Act, wherein the subject vehicle, i.e., Eicher Truck bearing registration No.RJ19-GD-8325 was seized as huge quantity, i.e., 1194 kg of opium doda chura has been recovered from the subject vehicle and the petitioner has also been implicated as an accused for the above stated offences.

6. The Hon'ble Apex Court in the case of **Bishwajit Dey Vs. State of Assam reported in (2025) 3 SCC 241** has laid down four criteria/ scenarios in Para Nos.33 & 34, which deal with grant/ non-grant of custody of the vehicle seized by the police during the

course of investigation, particularly, in the cases registered under the offences punishable under the N.D.P.S. Act.

7. The Para Nos.33-34 are reproduced hereinbelow for ready reference:

"33. 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.

34. 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. In the facts of the instant case, the petitioner falls within first and second scenarios, as defined by the Hon'ble Apex Court in the case of **Bishwajit Dey** (supra) as he is the registered owner of the vehicle and he himself is involved in commission of the alleged offences. Hence, under these circumstances, the petitioner is not entitled to get custody/*supurdagi* of the subject vehicle as the petitioner being the registered owner of the vehicle is also one of the accused for the offence under Sections 8/15, 8/25 & 8/29 N.D.P.S. Act in the aforesaid criminal case.

9. This Court below has not committed any error in rejecting the application submitted by the petitioner, which warrants any interference of this Court, hence, the instant criminal misc. petition is liable to be and is hereby rejected.

10. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J