

**HIGH COURT OF TRIPURA
AGARTALA
Crl. Rev. P. No.53 of 2025**

Union of India

represented by the Senior Intelligence Officer,
Directorate of Revenue Intelligence, Agartala Regional Unit,
under Ministry of Finance, Department of Revenue, Govt. of India.

----Petitioner

Versus

1. Sri Rajib Das,

S/O Jyoti Ranjan Das, resident of Village & P.O.-Resham Bagan,
P.S.-East Agartala, District-West Tripura, Pin-799001
(presently under Judicial Custody)

2. Smt. Suchitra Datta Das,

W/O Sri Rajib Das,
resident of Village & P.O.-Resham Bagan,
P.S.-East Agartala, District-West Tripura, Pin-799001.

---- Respondents

3. Sri Uttam Das,

S/O Ramani Das, resident of Trinath Ashram, Purba Pratapgarh,
P.S.-East Agartala, District-West Tripura, Pin-799001
(presently under Judicial Custody).

Presently, the family of Sri Uttam Das is residing at the house
premises of Sri Prahaladh Mukherjee, situated at Baldakhal,
Chandrapur, near Agartala Public School P.S.-East Agartala, West
Tripura, Pin-799008 on rent.

4. Sri Abhijit Bhowmik,

S/o Krishnagopal Bhowmik,
Resident of Village-Harinmura, Purba Naichara, P.S.-Ambassa,
District-Dhalai, Pin-799289(Absconding)

---- Proforma Respondents

For Petitioner(s) : Mr. Paramartha Datta, Adv.

For Respondent(s) : Mr. Sankar Lodh, Adv.

Date of hearing : 13.02.2026

Date of delivery of
Judgment & Order : 16.02.2026

Whether fit for
reporting : YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order(Oral)

Heard Learned standing Counsel, Mr. Paramartha Datta representing the petitioner-Union of India and also heard Learned Counsel, Mr. Sankar Lodh representing the respondents.

2. This criminal revision petition is filed challenging the order dated 19.05.2025 passed by Learned Special Judge (Court No.2), West Tripura, Agartala in connection with Special(NDPS)/57/2025 arising out of departmental case No.07/CL/NDPS/DRI/AGT/2024-25. By the said order, Learned Trial Court has released the seized vehicle bearing No.TR01-BP-0663(Maruti WagonR) on bail in favour of the respondent No.1-registered owner who is also the prime accused of this case to his wife.

3. At the time of hearing, Learned Counsel for the petitioner has drawn the attention of this Court that the respondent No.1 is one of the prime accused of the case bearing No. Special(NDPS)/57/2025 which arose out of departmental case No.07/CL/NDPS/DRI/AGT/2024-25, now pending before the Learned Special Judge (Court No.2), West Tripura, Agartala. The said respondent No.1 was caught in red hand with the offending vehicle on the alleged date and time and accordingly, the respondent No.1 was arrested and the vehicle was seized. Before the Learned Trial Court, a petition was filed by the wife of the said respondent No.1 for release of

the vehicle but knowing the fact that the respondent No.1 is the prime accused, the Learned Trial Court has released the said vehicle on bail to the wife of the respondent No.1 based upon the judgment of Hon'ble Supreme Court of **Sundarbhai Ambalal Desai Vs. State of Gujarat** reported in **2003 SC 638**. Learned Standing Counsel further submitted that in this case contraband items of commercial quantity was recovered from the accused and there was no scope on the part of the Learned Trial Court to release the vehicle on bail but since the Learned Trial Court has released the vehicle on bail, so, being aggrieved with the said order the Union of India has preferred this revision petition before this Court.

In support of his contention, Learned Counsel relied upon one judgment of Hon'ble Supreme Court in **Criminal Appeal No.87 of 2025 arising out of Special Leave Petition (Crl.) No.13370 of 2024) [titled as Bishwajit Dey vs. State of Assam]** wherein in para Nos.33 and 34, Hon'ble the Apex Court observed as under:

"Broadly speaking there are four scenarios

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."

Relying upon the said citation, Learned Counsel submitted that in view of the aforesaid judgment of the Hon'ble Supreme Court, there was no scope to release the seized vehicle on bail. Hence, the order dated 19.05.2025 passed by Learned Trial Judge be quashed/set aside.

Learned Counsel for the petitioner also referred another judgment of the Hon'ble Gauhati High Court in **Crl. Rev. P. No.268/2025** dated **29.01.2026** and further submitted that in similar situation, revision petition was filed.

4. On the other hand, Learned Counsel for the respondents first of all drawn the attention of the Court the provision of Section 397(1) of Cr.P.C. read with Section 401 of Cr.P.C corresponding to Section 438 and 442 of BNSS wherein it was specifically stated that there is no scope to entertain any revision application against the interlocutory order. So, according to Learned Counsel this petition is not maintainable

since the order passed by Learned Trial Court was interlocutory order.

In support of his contention, Learned Counsel relied upon one citation of Hon'ble Apex Court reported in **AIR 2017 SC 3620 [Girish Kumar Suneja v. C.B.I]** wherein in para Nos.16, 21, Hon'ble the Apex Court observed as under:

"16. While the text of sub-section (1) of Section 397 of the Cr.P.C. appears to confer very wide powers on the court in the exercise of its revision jurisdiction, this power is equally severely curtailed by sub-section (2) thereof. There is a complete prohibition in a court exercising its revision jurisdiction in respect of interlocutory orders. Therefore, what is the nature of orders in respect of which a court can exercise its revision jurisdiction?"

21. The concept of an intermediate order was further elucidated in *Madhu Limaye v. State of Maharashtra* by contra distinguishing a final order and an interlocutory order. This decision lays down the principle that an intermediate order is one which is interlocutory in nature but when reversed, it has the effect of terminating the proceedings and thereby resulting in a final order. Two such intermediate orders immediately come to mind - an order taking cognizance of an offence and summoning an accused and an order for framing charges. Prima facie these orders are interlocutory in nature, but when an order taking cognizance and summoning an accused is reversed, it has the effect of terminating the proceedings against that person resulting in a final order in his or her favour. Similarly, an order for framing of charges if reversed has the effect of discharging the accused person and resulting in a final order in his or her favour. Therefore, an intermediate order is one which if passed in a certain way, the proceedings would terminate but if passed in another way, the proceedings would continue."

Learned Counsel further relied upon another citation of Hon'ble Supreme Court reported in **(2000) 6 SCC 195 [titled as K.K. Patel and another Vs. State of Gujarat and another]** wherein in para No.11, Hon'ble the Apex Court observed as under:

"11. That apart, the view of the learned Single Judge of the High Court that no revision was maintainable on account of the bar contained in Section 397(2) of the Code, is clearly erroneous. It is now well-nigh settled that in deciding whether an order challenged is interlocutory or not as for Section 397(2) of the Code, the sole test is not whether such order was passed during the interim stage (vide Amar Nath v. State of Haryana:(1977) 4 SCC 551, Madhu Limaye v. State of Maharashtra:(1977) 4 SCC 551, V.C. Shukla v. State through CBI:1980 Supp SCC 92 and Rajendra Kumar Sitaram Pande v. Uttam:(1999) 3 SCC 134). The feasible test is whether by upholding the objections raised by a party, it would result in culminating the proceedings, if so any order passed on such objections would not be merely interlocutory in nature as envisaged in Section 397(2) of the Code. In the present case, if the objection raised by the appellants were upheld by the Court the entire prosecution proceedings would have been terminated. Hence, as per the said standard, the order was revisable."

Referring the same, Learned Counsel submitted that since the order passed is an interlocutory one, so, there is no scope to entertain the petition filed by the petitioner-Union of India and as such, according to Learned Counsel for the respondents, this petition is liable to be dismissed. Considered.

5. This petition is filed under Section 438 read with Section 442 of BNSS. For the sake of convenience, I would like to reproduce herein the relevant provision of Section 438 read with Section 442 of BNSS as under:

"438. Calling for records to exercise powers of revision.-(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on his own bond or bail bond pending the examination of the record.

Explanation.- All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 439.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.

442. High Court's powers of revision.-(1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 427, 430, 431 and 432 or on a Court of Session by section 344, and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 433.

(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by advocate in his own defence.

(3) Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.

(4) Where under this Sanhita an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.

(5) Where under this Sanhita an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly."

From the aforesaid provisions of law, it appears that it is the settled law that against an interlocutory order, there is no scope to entertain any revision petition.

6. Here in the case at hand, by the order dated 19.05.2025, Learned Trial Court has finally released the vehicle

on bail although with certain terms and conditions. So, after going through the citations referred by Learned Counsel for the respondents, it appears to this Court that the order impugned cannot be termed as an interlocutory order rather it appears to this Court as a final order. So, the submission of Learned Counsel for the respondents that the petition is not maintainable is not legally sustainable at this stage.

7. Now, regarding the legality of the order, it appears to this Court that the respondent No.1 is one of the prime accused of this case and he is also the owner of the said seized vehicle bearing No.TR-01BP-0663(Maruti WagonR), which is also revealed from the order of the Learned Trial Court. Further, from the relevant prosecution papers, it appears that on the alleged date and time the respondent No.1 along with another was caught in red hand by I/O along with the seized vehicle from which the contraband items was seized/recovered. Even at the time of hearing, the said fact has not been disputed by Learned Counsel for the respondents.

8. I have also gone through the judgment of the Hon'ble Supreme Court as relied upon by the petitioner in **Bishwajit Dey(supra)** wherein Hon'ble the Supreme Court has very specifically stated that where the owner of the vehicle is the person from whom the possession of contraband was recovered, in that case, the seized vehicle may not be released till reverse burden of proof is discharged by the accused person.

Thus, it appears that the order dated 19.05.2025 suffers from infirmity and the same needs to be interfered with.

9. Accordingly, the order dated 19.05.2025 to the extent of releasing of the aforementioned seized vehicle bearing No.TR-01-BP-0663(Maruti WagonR) on bail stands set aside/quashed. The respondent No.2 shall hand over the vehicle to the IO of this case.

10. With this observation, this present petition stands disposed of.

Send down the LCR along with a copy of the order/judgment.

Also, a copy of this order be supplied to Learned Counsel for the petitioner-Union of India for information and compliance.

Pending application(s), if any, also stands disposed of.

JUDGE

