

2026.PHHC.068683



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

142

CRM-M-24726-2026 (O&M)

Date of decision: 04.05.2026

U S Polymers**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Yash Yadav, Advocate
for the petitioner.

Ms. Himani Arora, DAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of order dated 20.04.2026, passed by the learned trial Court in case arising out of FIR No. 37 dated 28.02.2026, registered under Sections 15 and 29 of the NDPS Act, 1985 at Police Station Dujana, District Jhajjar, whereby his second application for release of 202 bags containing plastic dana, had been dismissed and also for setting aside the order dated 20.03.2026, whereby his first application with the same prayer had been dismissed.

2. Learned counsel for the petitioner has argued that the petitioner is not arraigned as an accused in the aforementioned case. As per the prosecution case itself, only 2 kg 10 grams of poppy straw was allegedly recovered from the vehicle and no contraband was recovered from the personal search of the accused persons, thereby showing that the goods in question i.e. 202 bags of plastic dana have no nexus with the alleged

2026.PHHC.068683



contraband. Learned counsel further submits that the petitioner had initially moved an application for release of the aforesaid goods on superdari, which was dismissed by the learned trial Court on the ground that the original owner of the goods as mentioned in the bilty had not joined investigation and that the owner of the vehicle was yet to be arrested. It is contended that subsequently, in a similar matter, the learned trial Court itself allowed release of other goods, which clearly reflects inconsistency in the approach of the Court concerned. It is further submitted that the petitioner thereafter filed a second application for release of the 202 bags of plastic dana. However, the same was dismissed vide order dated 20.04.2026 by making following observation :

“Today the case was fixed for arguments on application for superdari of 202 bags containing plastic dana loaded in the vehicle i.e. Ashok Leyland Canter bearing registration no.HR-63F-0781 (hereinafter referred as ‘goods’) to the applicant on superdari.

Report has been filed by IO, namely, SI Manoj, which is taken on record.

Arguments heard. During the course of arguments, it transpires that the earlier application filed by the applicant for release of 202 bags containing plastic dana loaded in the vehicle i.e. Ashok Leyland Canter bearing registration no.HR-63F-0781 has been dismissed by this Court vide order dated 20.03.2026. Although this fact had not been disclosed by the counsel for the applicant as well as the police official i.e. SI Manoj. The Investigating Officer SI Manoj has not opposed the application for release of above-mentioned goods but since the earlier application has already been dismissed, hence, if the application is again allowed at this stage, then it would amount to review

2026.PHHC.068683



the own order of this Court, which is not permissible in criminal jurisprudence. Hence, the application under Section 497 BNSS (old 451 Cr.P.C.) for superdari of goods contained in the vehicle i.e. Ashok Leyland Canter bearing registration no.HR-63F-0781 is dismissed. Papers be tagged with the main case file/remand papers.”

3. It is further submitted by learned counsel for the petitioner that in reply to the second application, the prosecution had not raised any objection to the release of the goods, unlike the earlier application, yet the learned trial Court failed to consider this crucial aspect and proceeded to dismiss the application. Hence, it is urged that the petition deserves to be allowed, impugned orders are liable to be quashed and the goods in question need to be released in favour of the petitioner.

4. Learned State counsel, who has advance notice of the petition, has no serious objection to the prayer made by the petitioner.

5. This Court has heard the rival submissions.

6. It is not in dispute that the petitioner is not arraigned as an accused in the present case. As per the prosecution version itself, the recovery effected is of 2 kg 10 grams of poppy straw from the vehicle in question and no contraband was recovered from the personal search of the accused persons. The goods sought to be released i.e. 202 bags of plastic dana are not alleged to be contraband nor has any material been placed on record to establish any nexus of the said goods with the commission of the alleged offence. This Court further notices that the first application filed by the petitioner for release of the goods was dismissed primarily on the ground that the owner had not joined the investigation and that the owner of the vehicle was yet to be

2026.PHHC.068683



arrested. However, it is apparent from the record that in the subsequent proceedings, the prosecution itself did not raise any objection to the release of the goods. Despite this material change in circumstances, the learned trial Court proceeded to dismiss the second application solely on the ground that allowing the same would amount to reviewing its earlier order. In the considered opinion of this Court, the approach adopted by the learned trial Court is not sustainable in law. The second application could not have been rejected merely on the ground of maintainability, particularly when there was a significant change in circumstances and when the prosecution itself had expressed no objection to the release of the goods. The power of the Court to release property is to be exercised to ensure that property is not unnecessarily kept in custody so as to suffer damage or deterioration. The Hon'ble Supreme Court in *Sunderbhai Ambalal Desai vs. State of Gujarat, 2002 (1) SCC 283* has categorically held that seized property should ordinarily be released on *superdari* at the earliest, subject to appropriate safeguards, as no useful purpose is served by retaining the same in police custody for an indefinite period.

7. In the present case, the goods in question are commercial articles and their continued retention in police custody is likely to result in deterioration and loss of value. The petitioner has also expressed willingness to furnish adequate surety and to abide by any conditions imposed by the Court. In view of the above, the impugned orders dated 20.03.2026 and 20.04.2026 passed by the learned trial Court cannot be sustained and are hereby set aside. Consequently, the petition is allowed. The Station House Officer/Investigating Officer concerned is directed to release the 202 bags

2026.PHHC.068683



containing plastic dana to the petitioner on *superdari*, subject to his furnishing adequate surety/bond to the satisfaction of the learned trial Court/Duty Magistrate. The petitioner shall also undertake to produce the said goods as and when required during the course of trial and shall not alienate or dispose of the same without prior permission of the Court.

04.05.2026
Waseem R. Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>