



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-70176-2025 (O&M)
Date of decision:24.02.2026

Fayaz Ahmad Bhat

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Manoj R. Sharma, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition for setting aside the impugned order dated 18.08.2025 passed in CRM-906-2025, vide which the application preferred by the petitioner for release of Alto car bearing registration No.JK-01-AK-2459 on Superdari being registered owner, has been dismissed.
2. Learned counsel submits that the vehicle in question of which the petitioner is a registered owner, was borrowed by the accused being the co-villagers on the pretext of attending a marriage and later it came to be implicated in the FIR No.156 dated 15.06.2025, registered under Section 21(b), 61/85 of NDPS Act at Police Station Dinanagar.
3. On the other hand, learned State counsel opposed on the ground that 29.89 grams of heroin was recovered from the car in question. In case the vehicle



is released, it may be used again for illegal activities. However, he was not able to controvert the submissions regarding the non-involvement of the vehicle in any other case under the NDPS Act, it had not been given by the petitioner for the purpose of transportation of contraband and the stage of the present case before the trial Court.

4. Heard.

5. The petitioner is not an accused in the case. The said vehicle is parked in the police station and its condition is deteriorating with each passing day and the trial is going to take a long time.

6. Hon'ble the Supreme Court in **Denash vs. The State of Tamil Nadu**, 2025 LiveLaw (SC) 1032, while dealing with a similar issue observed and held thus:

“26. The principle enunciated in the aforesaid decision makes it abundantly clear that confiscation or otherwise of a conveyance is to be determined finally, only upon conclusion of the trial, and until such adjudication, the ownership rights of the owner, who *prima facie* establishes that he is unconnected with the seized contraband, from claiming the seized vehicle cannot be extinguished. It further underscores that the power of confiscation is coupled with a duty to observe procedural fairness and to ensure that no prejudice is caused to an innocent owner who had neither knowledge nor willfully participated or connived to commit the offence under the NDPS Act.

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28. Moreover, Sections 36-C and 51 of the NDPS Act expressly make the provisions of the CrPC/BNSS applicable to proceedings before the Special Court, insofar as they are not inconsistent with the provisions of the NDPS Act. Consequently, the powers under Sections 451 and 457 of CrPC [Sections 497 and 503 of BNSS]



pertaining to disposal of property pending trial, would certainly apply to proceedings before the Special Court. In the absence of an express bar under the NDPS Act, the mere fact that a vehicle may be liable to confiscation under Section 60 cannot, by itself, operate to deny interim custody to a *bona fide* owner.

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31. In the present case, it is manifest that the appellant is the true owner of the vehicle, having valid documents. The vehicle was lawfully engaged for transportation of iron sheets weighing 29,400 MT. The seized drug, *i.e.*, 6 kilograms *Ganja* was found in possession of the four accused persons present in the vehicle. Neither was the appellant charge sheeted in the matter nor did the prosecution allege him to be acting in conspiracy. As a necessary corollary, it can safely be presumed that the said contraband must have been procured by the drivers and/or the *khalasis* without the knowledge or connivance of the appellant.

32. Having regard to the valuable consignment being transported and the high value of the vehicle, it does not stand to reason that the appellant, being the owner thereof, would knowingly jeopardize his business and property by permitting the transportation of 6 kilograms of *Ganja* alongside such valuable cargo.

33. The situation at hand may be examined with reference to the principles enunciated by this Court in paragraphs 29 and 30 of *Bishwajit Dey (supra)*, wherein four scenarios were delineated concerning the seizure of contraband from a conveyance, along with the general approach to be adopted by Courts while considering the question of interim release of such conveyances. Paragraphs 29 and 30 of *Bishwajit Dey (supra)*, are extracted hereinbelow 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.

31. This Court clarifies that the aforesaid discussion should not be taken as laying down a rigid formula as it will be



open to the trial Courts to take a different view, if the facts of the case so warrant.”

(Emphasis Supplied)

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35. In view of the above, while the present case may technically correspond to the second scenario as enumerated in paragraph 29 of *Bishwajit Dey (supra)*, the peculiar factual matrix warrants a more pragmatic approach. It would, therefore, be expedient in the interest of justice to grant interim custody of the vehicle to the appellant, as the overall circumstances clearly indicate his *bonafides* and absence of any involvement in the drugs being carried in the vehicle.”

7. Pertinently, mere apprehension of the State that the vehicle in question may again be used for illegal activities cannot be the sole ground to not release it on interim basis, especially when the vehicles that are taken into custody of the investigating agencies under other statutes are also released to the registered owners on Sapurdari. Moreover, there is no provision under the NDPS Act that bars such release.

8. The peculiar facts in each case to be examined are whether the vehicle had knowingly been given for the commission of offence; its involvement in other cases; stage of trial; time likely to be consumed for it to conclude; the idle parking of the same; loss being caused to the owner, in terms of its condition worsening with the passage of time; safety of its valuable parts; vehicle not being put to its lawful use; purpose of its purchase; the premises of the Police Department being unnecessarily occupied, all constitute the relevant factors, amongst others, that are required to be into consideration.

9. In light of the facts and circumstances of the case and judgment



referred to hereinabove, this Court finds that the present petition deserves to be and is hereby allowed. Accordingly, the impugned order dated 18.08.2025 is hereby set aside. The vehicle in question be forthwith released to the petitioner on Sapudari, subject to the satisfaction of the trial Court. However, it is clarified that the ultimate decision for confiscation of the said vehicle would be independently taken by the learned trial Court as per the provisions of the NDPS Act, after the conclusion of the trial.

10. It is made clear that in case, the vehicle of the petitioner is again found involved in any other crime, the same would be a ground to seek recall the order of its release.

(AMAN CHAUDHARY)
JUDGE

24.02.2026
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Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No