HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 6622/2026
CNR: RJHC020974692026 | URN: CRLMP / 16280U / 2026

Gurvinder Singh S/o Rajvant Singh, Aged about 43 years, R/o Chhaleri Kalan, Thana Mullapur, District Fatehgarh Sahib, Punjab

----Petitioner

Versus

State of Rajasthan through P.P.

----Respondent

For Petitioner(s)	:	Mr. Navdeep Singh with Ms. Bhuvneshwari, Ms. Karishma Pareek, Mr. Sanjay Singh Siradhana & Ms. Ritu Bhati
For Respondent(s)	:	Mr. Amit Gupta, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

16/11/2026

1. The petitioner has preferred this Criminal Misc. Petition under Section 528 of BNSS, 2023 against the order dated 02.09.2026 passed by learned Additional Sessions Judge, Ramganjmandi, District Kota (Raj.) in Criminal Misc. Application No.41/2026, whereby the application filed by the petitioner to release the vehicle, i.e., Tata Truck bearing registration No.PB-11-DD-5581 on 'supurdagi' was dismissed. The said vehicle was seized in connection with FIR No.123/2026 registered at Police Station Morak, District Kota Rural for offence under Section 8/15 of NDPS Act.

2. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case. Counsel submits that the

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petitioner is the registered owner of the vehicle in question. It is submitted that the petitioner was allegedly found in possession of the contraband article, i.e., Opium Poppy husk weighing 1.946 kilograms. It is further submitted that there is no criminal antecedent against the petitioner and he is on bail in the present case. Counsel submits that the vehicle which is presently lying at the police station is liable to deterioration and suffering damage if it is not released on supurdagi, and therefore, it is prayed that the impugned order be quashed and set aside and the vehicle be released on supurdagi. Counsel further submits that in view of the guidelines issued by Hon'ble Supreme Court in the case of **Sunderbhai Ambalal Desai versus State of Gujarat,** reported in **AIR 2003 SC 638**, there is no restriction in releasing the said vehicle to the petitioner on supurdagi.

3. Per Contra, learned State Counsel opposes the submission advanced on behalf of the petitioner. Counsel submits that the trial Court has rightly dismissed the application filed by the petitioner. It is submitted that contraband article, i.e., Opium Poppy husk weighing 1.946 kilograms has been recovered from the vehicle of the petitioner. It is submitted that the vehicle liable to be confiscated forms a part of the material evidence. If the interim custody of the said vehicle is granted, the possibility of it being sold, transferred, leased to any other person or otherwise dealt with in a manner prejudicial to the proceedings cannot be ruled out. There is also a likelihood that the vehicle may be damaged or its identity altered, which may adversely affect the prosecution case. Counsel submits that charge-sheet has been filed against

the petitioner for offences punishable under Sections 8/15 & 8/25 of NDPS Act and therefore, in view of the guidelines issued by Hon'ble Supreme Court in the case of **Bishwajit Dey versus State of Assam** reported in **(2025) 3 SCC 241,** vehicle in question cannot be released to the petitioner on supurdagi. Counsel thus, craves dismissal of the instant criminal misc. petition.

4. I have considered the rival submissions and perused the material available on record.

5. It is an admitted position that the contraband was recovered from the vehicle belonging to the petitioner. It is also undisputed that the petitioner is the registered owner of the said vehicle and was present therein at the time of the recovery of the contraband. It is further an admitted position that the vehicle is liable to confiscation only upon the conclusion of the trial, depending upon whether the accused is convicted, acquitted or discharged. Since the trial is still pending, the mere fact that the vehicle may ultimately be liable to confiscation cannot, by itself, constitute a valid ground for refusing interim custody of the vehicle to the petitioner during the pendency of the trial.

6. Perusal of the judgment passed by the Hon'ble Supreme Court in the case of **Bishwajit Dey (supra)** would reveal that there is no specific bar or restrictions under the NDPS Act for the interim release of any seized article. In appropriate cases, interim custody of the vehicle maybe given to the accused despite the fact that the said accused has been charge-sheeted.

7. Having considered the submissions made by learned counsel for the petitioner, perusing the material available on record and considering the fact that alleged recovered contraband is slightly above the small quantity, this Court finds that the vehicle in question has remained in police custody for a considerable period and its continued retention is likely to result in deterioration of its condition, therefore, in such circumstances, continued seizure of the vehicle would not serve any useful purpose.

8. Furthermore, this Court is guided by the judgment rendered by the Hon'ble Supreme Court in **Sunderbhai Ambalal Desai versus State of Gujarat,** reported in **AIR 2003 SC 638**, wherein it has been observed that even in NDPS cases, the vehicle can be released on appropriate terms and conditions so as to prevent its decay while in custody.

9. Accordingly, the instant Cr. Misc. Petition is allowed and the order dated 02.09.2026 passed by learned Additional Sessions Judge, Ramganjmandi, District Kota (Raj.) in Criminal Misc. Application No.41/2026, is hereby set aside and the learned trial Court is directed to release the vehicle in question i.e., Tata Truck bearing registration No.PB-11-DD-5581 on 'supurdagi' on the following conditions:-

> (a) the petitioner furnishes a personal bond in the sum of Rs.5,00,000/- with two sureties of Rs.2,50,000/- each to the satisfaction of the trial Court undertaking to produce the vehicle in question in the Court as and when required to do so.
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> (b) the petitioner shall get the vehicle in question photographed showing the registration number as well as the chassis number. Such photograph shall be

taken in the presence of the Investigating Officer, to be kept on the file of the case.

(c) the personal bond of the petitioner and bonds of sureties shall carry the photographs of the petitioner and his sureties and the bond of sureties shall further carry the photograph of persons identifying them before the Court which is with full residential particulars of the sureties and the persons identifying them.

(d) the petitioner shall undertake not to transfer the ownership of the vehicle in question and not to lease it to anyone and not to make or allow any changes in it to be made so as to make unidentifiable.

(e) the petitioner will not allow the vehicle in question to be used for any antisocial activities including for the purpose of carrying narcotics which may constitute offence under the NDPS Act.

10. Needless to say, the trial Court shall make verification of the fact that the petitioner is the registered owner of the vehicle in question.

11. With the aforesaid directions, this Criminal Misc. Petition stands disposed of.

12. The stay application and pending application(s), if any, also stand disposed of.

(ANIL KUMAR UPMAN),J

103(s)/LALIT MOHAN