HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Criminal Revision Petition No. 1120/2026
CNR: RJHC010703172026 | URN: CRLR / 2470U / 2026

Kishan Lomrod S/o Bhera Ram, Aged About 22 Years, Resident of Rotu Tehsil Jayal District Nagaur

----Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent

For Petitioner(s)	:	Mr. Achala Ram
For Respondent(s)	:	Mr. Ramesh Dewasi, PP

HON'BLE MS. JUSTICE REKHA BORANA

Order

10/08/2026

1. The present Criminal Revision Petition has been filed aggrieved of order dated 25.05.2026 passed by learned Additional Sessions Judge, Jayal, District Nagaur in Criminal Misc. Case No.29/2026 whereby application under Section 503, BNSS as filed by the petitioner for *Supurdgi* of vehicle in question, stood rejected.

2. The learned Trial Court while rejecting the application observed that the vehicle in question was seized by the Investigating Authority, the same being involved in the illegal trafficking of the contraband. The Court, while relying upon the Apex Court judgment in ***Bishwajit Dey Vs. State of Assam; AIR 2025 SC 549,*** held that the petitioner himself was the registered owner of the vehicle in question which was used for

supply/sale of the contraband and hence, is not entitled for release of the same.

3. Counsel for the petitioner submits that admittedly, the alleged contraband was recovered from the vehicle in question. The petitioner being the owner of the vehicle, deserves to be handed over the vehicle subject to the conditions to be imposed.

4. *Per contra* learned Public Prosecutor submits that the petitioner being the registered owner of the vehicle in question, being falling under First Scenario as categorized by Hon'ble the Apex Court in ***Bishwajit Dey*** (supra), is not entitled to get the vehicle released in his favour.

5. Heard the Counsels. Perused the record.

6. In ***Sunderbhai Ambalal Desai Vs. State of Gujarat; (2002) 10 SCC 283***, Hon'ble the Apex Court held that valuable vehicles and articles must not be permitted to be languished in police custody for a long period exposed to elements, and directed that interim release of such vehicles/articles should be ordered subject to appropriate bond/guarantee for the same.

7. The aforesaid view was reiterated by Hon'ble the Apex Court in ***Sainaba Vs. State of Kerala & Ors.; (2024) 13 SCC 382*** whereby it was held that wasting assets particularly vehicles, must be preserved by entrusting custody to the rightful owner.

8. In ***Bishwajit Dey*** (supra), therein Hon'ble the Apex Court held as under:

> *"22. This Court is further of the opinion that there is no specific bar/restriction under the provisions of the NDPS Act for return of any seized vehicle used for transporting narcotic drug or psychotropic*

> *substance in the interim pending disposal of the criminal case.*
>
> *23. In the absence of any specific bar under the NDPS Act and in view of Section 51 of NDPS Act, the Court can invoke the general power under Sections 451 and 457 of the Cr.P.C. for return of the seized vehicle pending final decision of the criminal case.* ***Consequently, the trial Court has the discretion to release the vehicle in the interim. However, this power would have to be exercised in accordance with law in the facts and circumstances of each case.***"

The Court further held as under:

> *"28. Undoubtedly, the Vehicle is a critical piece of material evidence that may be required for inspection to substantiate the prosecution's case, yet the said requirement can be met by stipulating conditions while releasing the Vehicle in interim on superdari like videography and still photographs to be authenticated by the Investigating Officer, owner of the Vehicle and accused by signing the said inventory as well as restriction on sale/transfer of the Vehicle."*

9. Coming to the ratio as relied upon by the learned Trial Court, the judgment itself lays down that the said 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 so warrant.

10. Most importantly, in ***Bishwajit Dey*** (supra) in concluding paras, the Hon'ble Apex Court opined as under :

> "*34. This Court is also of the view that if the Vehicle in the present case is allowed to be kept in the custody of police till the trial is over, it will serve no*

> *purpose. This Court takes judicial notice that vehicles in police custody are stored in the open. Consequently, if the Vehicle is not released during the* trial, it will be wasted and suffering the vagaries of the weather, its value will only reduce.
>
> *35. On the contrary, if the Vehicle in question is released, it would be beneficial to the owner (who would be able to earn his livelihood), to the bank/financier (who would be repaid the loan disbursed by it) and to the society at large (as an additional vehicle would be available for transportation of goods)*."

11. Keeping into consideration the above ratio, Hon'ble the Apex Court in its recent judgment of ***Azadveer Singh Sikh Vs. The State of Madhya Pradesh; Criminal Appeal No. 2829/2026,*** (decided on 25.05.2026) held as under:

> *"8. In view of the above and having regard to the fact that confiscation of the vehicle would be permissible on conclusion of the trial, which may not conclude in near future, considering the remaining commercial life of the vehicle and that there is no material to demonstrate that the appellant is a repeat offender of offences under the NDPS Act, we are of the view that if the vehicle is released by taking adequate security from the appellant, interest of both sides shall stand protected."*

12. In view of the above settled position of law, this Court is of the opinion that keeping the vehicle in police custody would definitely lead to its deterioration. Further, keeping into consideration the fact that the trial in question would take a

considerable time to complete, keeping the vehicle in question in police custody would serve no purpose.

13. The criminal revision petition is hence, **allowed**. Order dated 25.05.2026 is hereby quashed and set aside.

14. The vehicle in question is directed to be released in favour of the petitioner on terms and conditions to be determined by the Special Court including interim custody till conclusion of the trial, provided he furnishes a *Supurdaginama* of Rs.50,000/- and surety of like amount to the satisfaction of the Court below.

15. Stay petition and pending applications, if any, stand **disposed of**.

(REKHA BORANA),J

44/Anil Makwana