HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 2217/2026
CNR: RJHC020335522026 | URN: CRLMP / 5046U / 2026

Raju Hussain S/o Jakir Qureshi, Aged About 22 Years, R/o House No. 167/36, Parvati Colony Amagarh, Delhi Byepass Road, Police Station Transport Nagar, Jaipur.

----Petitioner

Versus

State Of Rajasthan, Through P.p.

----Respondent

For Petitioner(s)	:	Mr. Chandra Shekhar, Adv.
For Respondent(s)	:	Ms. Arti Sharma, PP Mr. N.S. Dhakar, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

31/08/2026

1. The instant Cr. Misc. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been preferred by the petitioner assailing the order dated 23.02.2026 passed by the Special Judge, NDPS Cases, Jaipur Metropolitan-I in Criminal Misc. Application No.133/2026, whereby the application preferred by the petitioner under Section 497 of the BNSS, 2023 seeking interim custody (*supurdgi*) of vehicle bearing registration No.RJ-60-SJ-2277 (Motorcycle) was dismissed. The said vehicle was seized in connection with FIR No.14/2026 registered at Police Station Transport Nagar, Jaipur City (East) for offence under Section 8/21 of NDPS Act.

2. Learned counsel for the petitioner submits that the petitioner is the registered owner of the vehicle in question. Counsel submits

that vide order dated 23.02.2026, the learned Trial Court, without assigning any cogent reasons, dismissed the application for interim custody of the vehicle. He submits that the petitioner has been falsely implicated in the present case and the contraband article recovered from the possession of the petitioner is below commercial quantity, the investigation has already been completed, trial of the case will take considerable time in its conclusion and no useful purpose would be served by keeping the vehicle in police custody. Counsel further submits that if the vehicle in question is not released then the same will get deteriorated in the police station as no proper arrangement has been made to safeguard its custody. Counsel submits that the learned Court below has failed to appreciate the settled legal position governing release of seized vehicles on *supurdgi* and has wrongly rejected the application, therefore, considering the aforesaid facts, the present petition may be allowed.

3. Per Contra, learned State Counsel opposes the submission made by the counsel for the petitioner. He submits that contraband article weighing 5.71 gram of Smack was recovered from the conscious possession of the petitioner. Counsel further submits that the learned trial Court after considering all the relevant material on record has rightly dismissed the application filed by the petitioner. He submits that custody of the vehicle allegedly used in the commission of the offence is necessary for the just decision of the case and therefore, the present petition may be dismissed.

4. Heard learned counsel for the parties and perused the material available on record.

5. At this juncture, it is apposite for this Court to refer to the case of **Sunderbhai Ambalal Desai vs. State of Gujarat, (2002) 10 SCC 283**, wherein the Hon'ble Supreme Court held that valuable vehicles and articles must not be permitted to be languished in police custody for a prolonged period and directed that interim release of such vehicles/articles should be ordered subject to appropriate bond/guarantee in respect thereof.

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

7. Furthermore, the Hon'ble Supreme Court in the case of **Bishwajit Dey vs. State of Assam**, **2025 INSC 32** has 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**.
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> **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.
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> **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.

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)**."

(emphasis supplied)

8. Upon considering the facts and circumstances of the present case and being guided by the principles laid down in the judgments referred hereinabove, this Court is of the considered opinion 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; the recovered quantity of the contraband article is below commercial quantity, investigation has already been completed and trial is likely to take considerable time in its conclusion, therefore, in these circumstances, continued seizure of the vehicle would not serve any useful purpose.

9. Accordingly, the instant Criminal Misc. Petition is allowed and the impugned order dated 23.02.2026 passed by the Special

Judge, NDPS Cases, Jaipur Metropolitan-I in Criminal Misc. Application No.133/2026 is set aside and the learned trial Court is directed to release the vehicle i.e., (Motorcycle) bearing registration No.RJ-60-SJ-2277 in favour of the petitioner on supurdagi on the following conditions:-

i. The petitioner furnishes a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- 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.

ii. The petitioner shall get the vehicle in question photographed showing the registration number as well as the chassis number. Such photographs shall be taken in the presence of the Investigating Officer, to be kept on the file of the case.

iii. 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.

iv. 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 it unidentifiable.

v. 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, trial court shall make verification of the fact that the petitioner is a registered owner of the said vehicle.

11. Stay petition and pending application(s), if any, also stand disposed of.

(ANIL KUMAR UPMAN),J

25/Manoj Solanki