



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No.7517/2025

Khurshid S/o Itilyas, R/o Nakalpur, Police Station Punhana,
District Nuhu Mewat (Hariyana).

-----Petitioner

Versus

State Of Rajasthan, Through P.P.

-----Respondent



For Petitioner(s) : Mr. Gajender Singh Rathore
For Respondent(s) : Mr. Vivek Choudhary, PP

JUSTICE ANOOP KUMAR DHAND

Order

02/12/2025

1. By way of filing the present criminal misc. petition, a challenge has been led to the impugned order dated 01.11.2025 passed by the Additional Sessions Judge, Laxmangarh, District Alwar by which the application submitted by the petitioner under Section 497 read with Section 503 BNSS, 2023 seeking supurdagi of the seized subject vehicle bearing No.DL-3-CBV-6509, has been rejected.
2. Learned counsel for the petitioner submits that an FIR No.81/2024 was registered with Police Station Badodamev, District Alwar for the offences under Sections 8, 20 & 25 of the NDPS Act, wherein the subject vehicle in question was seized and the petitioner is the registered owner of the subject vehicle. Learned counsel submits that now investigation is completed and the subject vehicle is not required for the purpose of investigation, therefore, the subject vehicle in question be released on



supurdagi. In support of his contentions, he has placed reliance upon the judgments passed by the co-ordinate Bench of this Court in the case of **Deepu Vs. State of Rajasthan through P.P.** reported in **2024 (2) Cri.L.R. (Raj.) 751** and **Devigan Urf Degen Verman Vs. State of Rajasthan** reported in **2021(1) Cri.L.R. (Raj.) 252.**

3. *Per contra*, learned Public Prosecutor opposes the prayer made by learned counsel for the petitioner and submits that huge quantity of contraband, i.e., 52 kg 267 gms of *Ganja* has been recovered from the subject vehicle in question and the petitioner is the registered owner of the subject vehicle and he has been arrayed as an accused in the aforesaid FIR. Hence, under these circumstances, the petitioner is not entitled to get the supurdagi of the subject vehicle in question and the Trial Court has not committed any error in rejecting the aforesaid application submitted by the petitioner.

4. Heard and considered the submissions made at the Bar and perused the material available on the record.

5. Perusal of the record indicates that an FIR bearing No.81/2024 was registered with Police Station Badodamev, District Alwar for the offences under Sections 8, 20 & 25 of the NDPS Act, wherein it has been alleged that on inspection of Swift Dzire Car bearing No.DL-3-CBV-6509, 52 kg 267 gms of *Ganja* was recovered and the petitioner has been charge-sheeted along-with co-accused persons for the above stated offences. Though the petitioner is claiming himself as the registered owner of the subject vehicle. However, now the question before this Court is



whether the vehicle in question can be released on supurdagi simply on the ground that the petitioner is a registered owner.

6. The Hon'ble Apex Court in the case of **Bishwajit Dey Vs. State of Assam** (Criminal Appeal No.87/2025) decided on 07.01.2025 has formulated four scenarios and it has been held that if the vehicle is found to be involved in the first and second scenarios, it cannot be released and if the vehicle is found to be involved in third and four scenarios, appropriate orders can be passed by the Court for releasing the same on 'Supurdagi' and it has been held in para 29 and 30 as under:-

"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.”

7. The first two scenarios deal with the situations where supurdagi of such vehicles has not been permitted when the registered owner of the vehicle was found to be involved in commission of offences punishable under NDPS Act such as when the contraband/drugs have been recovered from the possession of the owner of the vehicle or his agent such as driver or cleaner of the vehicle.

8. The latter two scenarios illustrated by the Hon'ble Apex Court deal with the circumstances when the vehicle can be released on supurdagi such as when the vehicle is stolen or the contraband/drug has been seized from a third party occupant. Since the petitioner falls under the first scenario, hence, the petitioner is not entitled to get the supurdagi of the vehicle in terms of the judgment passed by the Hon'ble Apex Court in **Bishwajit Dey** (supra).

9. Upon perusal of the aforesaid, it is made clear that the case of the petitioner falls in the first scenario as the petitioner is the owner of the vehicle in question and the contraband has been recovered from the said vehicle for which the petitioner is claiming himself as the owner.

10. In light of the judgment passed by **Bishwajit Dey** (Supra), this Court is not inclined to entertain the instant criminal misc. petition and finds no illegality in the impugned order passed by the Court below, which requires any interference of this Court.



11. Accordingly, the present criminal misc. petition stands dismissed. Stay application and all pending application(s), if any, also stand dismissed.

(ANOOP KUMAR DHAND),J

Karan/66

