



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 819/2026

Jaipal Singh S/o Sh.keshar Singh, Aged About 48 Years, Resident
Of Village Poonam Nagar, Police Station Ramgarh, District
Jaisalmer, Rajasthan

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

For Petitioner(s) : Mr. L.D. Khatri, Adv.
Mr. Chirag Khatri, Adv.
For Respondent(s) : Mr. Rajesh Bhati, PP

**HON'BLE MR. JUSTICE SANJEET PUROHIT (VACATION JUDGE)
Order**

03/06/2026

1. Revisionist has preferred this criminal revision petition under Section 438 B.N.S.S. against order dated 11.05.2026 passed by learned Additional Sessions Judge, Jaisalmer in Sessions Case No.34/2025 (31/2025), whereby petitioner's application under Section 497 BNSS read with Section 503 BNSS for release of muddamal / article i.e., 12-bore rifle was rejected on the ground that said firearm has been allegedly used in offence in question.

2. While explaining brief facts of present case, learned counsel for revisionist stated that revisionist is a retired ex-army personnel and upon his retirement, he was granted a license for 12-bore rifle. The said article was seized in connection with FIR dated 14.10.2024 bearing No.70/2024 lodged at P.S. Ramgarh, District Jaisalmer on false facts against petitioner for offences under Section 126(2), 115(2), 124(4), 109(1), 3/5 of B.N.S & Section 5/27 of Arms Act, 1959.



3. Learned counsel for revisionist submits that revisionist is owner of said Rifle and same has not been used in any criminal activity. It is further submitted that valid arms licence was issued in favour of revisionist by District Magistrate, Poonch on 26.06.2023, which remains valid up to 26.06.2026. It was further contended that, in view of impending expiry of licence and requirement of its renewal, revisionist seeks release of firearm so that the same may be produced before competent authority for renewal of licence.

4. It is submitted that no proper care / maintenance of Rifle is being done by Police Authorities which may render said firearm useless as trial would take long time to conclude. It is also submitted that there are no criminal antecedents of revisionist except one initiated by FIR No. 70/2024 wherein charge-sheet has already been filed. Learned counsel placed reliance on judgment dated 05.02.2024 passed by Hon'ble Gujarat High Court in ***Dineshsinh Parimalsinh Tomar v State Of Gujarat*** in Special Criminal Application (Possession Of Muddamal) No. 634 Of 2024.

5. *Per contra*, learned counsel for respondent-State opposed the prayer made by revisionist and submitted that learned Additional Sessions Judge has rightly come to the conclusion that said firearm was used in committing the offence in question and same being Muddamal will be required during evidence which is yet due to be recorded in trial.

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





7. It is not in dispute that revisionist is a retired Ex-serviceman and 12-bore rifle in question is a licensed firearm standing in his name under a valid arms licence issued by competent authority. It is also not disputed that investigation has been completed and charge-sheet has already been filed. Therefore, continued retention of firearm in *malkhana* is not required.

8. This Court finds that apprehension expressed by respondent State that release of said firearm may result in repetition of offence is speculative in nature and unsupported by any material placed on record. Merely lodging of one FIR cannot by itself constitute a valid ground to presume that petitioner will indulge in any criminal activity involving the use of rifle in question, more particularly, when no other criminal antecedent has been reported against the revisionist.

The further contention of the learned Public Prosecutor that the muddamal / rifle in question cannot be released as the same would be required during the course of trial is also not a justified ground to keep the rifle in malkhana till time indefinite as the trial is going to take considerable time for its conclusion. The firearm can always be produced before the trial court whenever required and appropriate safeguards / conditions can also be imposed while releasing the firearm so as to protect the requirement of fair trial.

9. This Court further finds substance in the submission advanced on behalf of revisionist that prolonged retention of the firearm may adversely affect its condition and utility. Given that trial is going to take considerable time, there exists a possibility that firearm may suffer deterioration in its condition and





operational efficiency in absence of due care. Valuable property should ordinarily not be permitted to remain in police custody for an indefinite period, especially when proper documentation, photographs and identification particulars of the article can adequately safeguard the purpose of evidentiary requirements during trial.

10. Reliance placed on behalf of petitioner upon the judgment passed by Hon'ble Apex Court in **Sunderbhai Ambalal Desai v. State of Gujarat reported in 2002 10 SCC 290** acquires relevance in the present context as it has been held that powers under Section 451 Cr.P.C.(now Section 497 BNSS) should be exercised expeditiously and judiciously. Relevant paragraph is reproduced herein below:

7. In our view, the powers under Section 451 CrPC should be exercised expeditiously and judiciously. It would serve various purposes, namely:

- 1. owner of the article would not suffer because of its remaining unused or by its misappropriation;*
- 2. court or the police would not be required to keep the article in safe custody;*
- 3. if the proper panchnama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and*
- 4. this jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.*

11. Moreover, it is borne out from the record that arms licence issued in favour of revisionist is due for renewal. For such renewal, firearm is required to be produced before competent licensing authority in its physical form. Denial of release of firearm would adversely affect revisionist an opportunity to seek renewal of a





valid arm licence granted under law. It is also pertinent to note that, in the event licence is not renewed within prescribed period i.e., before 26.06.2026 due to non-production of said firearm, revisionist may be compelled to undergo entire process afresh for obtaining an arms licence, thereby causing undue hardship to him.

In these peculiar circumstances, no useful purpose would be served by continuing to retain the firearm in police custody merely on account of pendency of trial.

12. This Court also cannot lose sight of the fact that revisionist is a retired Ex-serviceman who, after rendering service to nation, is presently engaged as a security guard at bank / at solar power plant project. Therefore, for revisionist, rifle in question is not a mere cherished possession or decorative article, rather it constitutes an important tool connected with his vocation and source of livelihood. Depriving him of custody of the licensed firearm therefore may adversely impact his ability to effectively discharge his professional responsibilities.

13. Therefore, in view of aforesaid and having regard to the facts that revisionist is a licensed holder of the firearm, is a retired Ex-serviceman, has no criminal antecedents, challan has already been filed in relation to the FIR registered against revisionist and trial may take time to conclude, this Court is of considered opinion that learned trial Court was not justified in rejecting revisionist's application for release of firearm.

14. Accordingly, present criminal revision petition is **allowed**. Order impugned dated 11.05.2026 passed by learned Additional District & Sessions Judge, Jaisalmer in Sessions Case No. 34/2025





(31/2025) is quashed and set aside. Learned Trial Court is directed to release muddamal / firearm of revisionist being 12-bore rifle Bearing No. 28840-10 subject to following terms and conditions that petitioner :-

(i) shall furnish a solvent surety of amount equivalent to price of muddamal-rifle in question stated in FIR/panchnama;

(ii) shall file undertaking before the learned trial Court that he shall not transfer/ change the identity, colour, etc; of firearm/rifle till final disposal of trial;

(iii) shall produce muddamal as and when directed by learned Trial Court;

(iv) in the event of any subsequent offence, firearm shall stand confiscated.

(v) Learned Trial Court is directed to prepare detail panchanama of the muddamal / rifle in question to be released in favour of petitioner and shall complete proper documentation, photographs and identification particulars of the article in question;

15. While release of muddamal / rifle in question, learned Trial Court shall pass appropriate directions to the concerned police authority to take photographs of muddamal from all sides and record all required identification particulars thereof, at the cost of revisionist and shall draw necessary panchanama to that effect. Said panchnama and photographs shall be part of record of learned Trial Court.

16. Stay application and all other pending applications, if any, stand **disposed of**.

(SANJEET PUROHIT), VJ

344-shashikant-vallabhi/-

