



IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE PUSHPENDRA YADAV

ON THE 16th OF SEPTEMBER, 2026

CRIMINAL REVISION No. 742 of 2026

LOKENDRA ALIAS GOLU

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Siddharth Sijoria and Ms. Sakshi Basnet - Advocate for the petitioner.

Shri Atul Sharma - Public Prosecutor for the State.

ORDER

The present revision has been filed under Sections 438/442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “BNSS”), against the order dated 31.01.2026 passed by the Special Judge (NDPS Act), Guna, in MJCR No. 81/2026, whereby the application filed by the petitioner under Section 503 of the BNSS for release of the vehicle on Supurdginama was rejected.

2. Brief facts of the case are that, on 12.12.2025, an FIR bearing Crime No. 182/2025 was registered at Police Station Mragwas, District Guna, for offences punishable under Sections 8/18 of the Narcotic Drugs and Psychotropic Substances Act, 1985. As per the prosecution story, on 11.12.2025, the petitioner, along with co-accused persons, was found transporting 1.608 kilograms of opium in a white-coloured Creta car bearing Registration No. MP-14ZH-3584. The said vehicle was seized. The petitioner was the person who was driving the vehicle at the time when the vehicle was seized. The petitioner was also the owner of the said vehicle. The petitioner filed an application under Section 503 of the BNSS for release of the vehicle on Supurdginama, which had been seized in pursuance of



Crime No. 182/2025 registered at Police Station Mragwas. The learned trial Court, vide order dated 31.01.2026, rejected the said application. Hence, the present revision.

3. Learned counsel for the petitioner submitted that the learned Court below has erred in rejecting the application for release of the vehicle by relying upon the order passed by the Rajasthan High Court in Criminal Misc. (Petition) No. 7517 of 2025 (Khurshid Vs. State of Rajasthan), vide order dated 02.12.2025. It is submitted that there is no bar for releasing the vehicle on Supurdginama. Learned counsel for the petitioner further submitted that the learned trial Court has relied upon the order passed by the Rajasthan High Court without taking into consideration the law laid down by the Hon'ble Apex Court in the case of *Bishwajit Dey Vs. State of Assam*, reported in (2025) 3 SCC 241.

4. Learned counsel for the petitioner further submitted that the order passed by the Rajasthan High Court was based upon the order passed by the Hon'ble Apex Court in the case of *Bishwajit Dey (Supra)*, but the clarification given by the Hon'ble Apex Court has not been taken into consideration. Learned counsel for the petitioner also submitted that, in an identical case, the Court below has released the vehicle in MJCR No. 9 of 2026 vide order dated 05.01.2026. It is submitted that there is no absolute bar and, therefore, taking into consideration the facts of each case, the trial Court can consider the application and pass an appropriate order.

5. Per contra, learned counsel for the State opposed the prayer and supported the order passed by the learned Court below.

6. Heard learned counsel for the parties and perused the record.

7. From perusal of the impugned order, it is clear that the order passed by the learned Court below is based upon the order passed by the Rajasthan High Court in Cr.Misc. (Petition) No. 7517 of 2025. The order passed by the Rajasthan



High Court was based upon the order passed by the Hon'ble Supreme Court in the case of *Bishwajit Dey (Supra)*. In the case of *Bishwajit Dey (Supra)*, the Hon'ble Apex Court, in paragraphs 33, 34, and 35 has held as under:

“33. 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.

34. 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 supurdginama 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 supurdginama 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.

35. This Court clarifies that the aforesaid 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 of the case so warrant.”

Emphasis supplied.

8. In paragraph 35, the Hon'ble Apex Court has clarified that the aforesaid discussion should not be taken as laying down a rigid formula and that it will be open to the trial Courts to take a different view, if the facts of the case so warrant. Therefore, in view of the law laid down by the Hon'ble Apex Court, it is clear that there is no rigid formula and it is open to the trial Court to take a decision considering the facts of the case.

9. In the present case, the learned trial Court has rejected the application



filed by the petitioner out-rightly without considering the same on merits. Learned counsel for the petitioner has also placed on record a copy of the order passed by the trial Court wherein in similar set of facts, the application for release of the vehicle was allowed.

10. Taking into consideration the aforesaid circumstances and the law laid down by the Hon'ble Apex Court in the case of *Bishwajit Dey (Supra)*, especially the clarification contained in paragraph 35 of the said judgment, this Court is of the view that the matter deserves to be reconsidered by the learned trial Court.

11. Accordingly, the impugned order dated 31.01.2026 passed by the Special Judge (NDPS Act), Guna, in MJCR No. 81/2026 is hereby set aside. The matter is remanded back to the learned trial Court to take a fresh decision on the application filed by the petitioner for release of the vehicle on Supurdginama, after considering the facts and circumstances of the case and the applicable law, including the law laid down by the Hon'ble Apex Court in the case of *Bishwajit Dey (Supra)*.

12. With the aforesaid observation and direction, the present revision stands disposed of.

(PUSHPENDRA YADAV)
JUDGE

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