



¹ NEUTRAL CITATION NO. 2026:MPHC-IND:26761

Cr.R. NO. 3437/2026

**IN THE HIGH COURT OF MADHYA
PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

ON THE 18th OF SEPTEMBER, 2026

CRIMINAL REVISION No. 3437 of 2026

S. K. FINANCE LIMITED

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Anuj Bhargava - Advocate for the petitioner.

Shri Gaurav Rawat –GA for the respondent/State.

Reserved on : 18.09.2026

Post on : 22.09.2026

ORDER

1. The present criminal revision has been preferred by the revisionist under Section 438 read with Section 442 of the



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Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS"). The revisionist challenges the impugned order dated 02/04/2026 passed by the learned Special Judge (NDPS Act, 1985), Neemuch, in MJC R/415/2025.

2. By the aforesaid impugned order, the learned Special Judge dismissed the application filed by the revisionist-petitioner under Sections 497 and 503 of the BNSS, wherein the petitioner sought interim custody (Supurdaginama) of the seized vehicle. The petitioner, a registered company, has instituted the present proceedings through its duly authorized representative on the basis of a Board resolution dated 03/04/2026.

FACTS IN BRIEF

3. The relevant facts, as appearing from the record, are that on 24/04/2025, Police Station Neemuch City received an anonymous information that one Dhanraj Singh S/o Jaysingh was travelling in a Swift car bearing registration No. RJ-27-CK-7132 (hereinafter referred to as the "said vehicle") to deliver a contraband substance (opium) to someone in Rajasthan via Javi-Malkheda. Acting upon the said information, the police intercepted the said vehicle in front of Shri Ram Warehouse on the Neemuch Bypass Four-lane Road. During the search, 7 Kg of opium was seized from the conscious



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possession of Dhanraj Singh S/o Jaysingh. Consequently, the accused was arrested on the spot, and Crime No. 201/2025 under Section 8/18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) was registered.

4. The record further reveals that Respondent No. 2 is the registered owner of the said vehicle. The said vehicle was purchased by Respondent No. 2 on 21/12/2023 by availing a loan facility of Rs. 5,04,741/- from the petitioner-company, leading to the execution of a loan agreement. Under the agreement, Respondent No. 2 was required to repay the loan in 36 Equated Monthly Instalments (EMIs) of Rs.17,499/-. According to the petitioner, Respondent No. 2 defaulted in the repayment of the loan, and instalments to the tune of Rs. 4,70,274.20/- are due and payable. Claiming entitlement to the custody of the vehicle under the default clause of the loan agreement, the petitioner-company filed an application dated 10/06/2024 before the Special Judge (NDPS Act), Neemuch, under Sections 497 and 503 of BNSS for custody of the vehicle on Supurdaginama.

5. The Special Judge, vide the impugned order dated 02/04/2026, dismissed the said application on the primary ground that Respondent No. 2 is the registered owner of the vehicle in question, and not the petitioner-company.



SUBMISSIONS OF THE REVISIONIST

6. Learned counsel for the revisionist vehemently submitted that the impugned order suffers from patent illegality and non-application of mind. It is contended that the court below completely ignored the terms of the hire-purchase/loan agreement, which explicitly vests the right of repossession with the financier-company in the event of an EMI default. It is further submitted that the registration certificate itself reflects the name of the petitioner-company as the financier. The counsel argued that until the loan is fully satisfied/repaid, Respondent No. 2 cannot claim absolute ownership over the vehicle. Since the vehicle was used in the commission of an offense, violating the terms of the loan agreement, the financier is the most appropriate party to be granted interim custody.

7. Lastly, learned counsel submitted that the seized vehicle is parked in the open premises of the police station and is decaying day by day. Refusing to hand over the vehicle on Supurdaginama to the petitioner, who holds a valid financial interest, amounts to a miscarriage of justice.



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SUBMISSIONS OF THE STATE

8. *Per contra*, learned counsel appearing for the respondent/State has strongly opposed the present criminal revision. It is submitted that the impugned order passed by the court below is well-reasoned and perfectly in accordance with the law. The State contends that a financier cannot be substituted for the registered owner in criminal proceedings for the purpose of granting interim custody. It is pertinent to mention that despite the proceedings, Respondent No. 2 (the registered owner) has not appeared before this Court to contest the present revision petition.

ANALYSIS AND FINDINGS

9. This Court has carefully examined the record, the impugned order, and the submissions advanced by the rival parties in light of the statutory provisions and the judicial pronouncement mentioned above.

10. The issue of releasing a vehicle seized under the NDPS Act has been comprehensively dealt with by the Hon'ble Supreme Court in the recent case of **Bishwajit Dey v. State of Assam, (2025) 3 SCC 241 : (2025) 2 SCC (Cri) 50 : 2025 SCC OnLine SC 40.** At page 263, the Apex Court observed and held as under:

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"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 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."

11. Dealing first with the petitioner's contention that he is entitled to the custody of the vehicle due to the existence of a hire-purchase agreement and the subsequent default in EMIs by Respondent No. 2. This submission cannot be accepted. A criminal court exercising



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jurisdiction under Sections 497 and 503 of the BNSS is not the appropriate forum to execute the terms of a civil contract or a loan agreement. The contractual right of repossession upon default is a civil dispute between the financier and the borrower.

12. Coming to the contention that the petitioner's name is indicated as a financier in the registration details and that Respondent No. 2 has not become the absolute owner. The record clearly establishes, and it is an admitted position, that Respondent No. 2 is the registered owner of the said vehicle. The endorsement of hypothecation on a registration certificate merely protects the financial interest of the company but does not transfer the statutory "ownership" of the vehicle to the financier for the purpose of criminal proceedings.

13. Further, the contention raised by the learned counsel that the vehicle is decaying outside the police station deserves consideration in a general sense; however, the preservation of the vehicle cannot be achieved by handing it over to a party who lacks the immediate legal locus to claim interim custody under criminal jurisprudence. Applying the law laid down by the Hon'ble Supreme Court in **Bishwajit Dey (supra)**, the Apex Court has repeatedly and deliberately used the phrase "owner of the vehicle and/or his agent". It is patently clear from the binding precedent that only the owner



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of the vehicle or the agent of the owner is entitled to claim Supurdagi of a vehicle seized in connection with an NDPS offense. The petitioner herein is neither the registered owner nor an agent of the owner.

14. Therefore, the finding of the learned Special Judge that the petitioner-company, being merely a financier and not the registered owner, is not entitled to the interim custody of the vehicle is legally sound and fully supported by the documentary evidence (Annexure P/3) available on record.

15. The argument that the registered owner (Respondent No. 2) has used the vehicle in violation of the loan agreement and hence lost his right to custody is extraneous to the present proceedings. Such a violation may give rise to civil consequences or arbitration proceedings between the parties, but it does not automatically authorize the criminal court to hand over the case property to the financier during the pendency of a trial under the NDPS Act. .

16. On a careful consideration of the entire material on record, this Court finds no perversity, patent illegality, or jurisdictional error in the impugned order. The learned Special Judge has correctly appreciated the facts and applied the prevailing law while rejecting the application of the petitioner.



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17. In the facts and circumstances of the present case, and taking into account the mandate of the Hon'ble Supreme Court that only the owner or his agent can be entitled to Supurdagi, this Court finds that the order of the lower court is just and proper.

18. Accordingly, this Court finds no ground to interfere with the impugned order. The impugned order dated 02/04/2026 passed by the Special Judge (NDPS Act), Neemuch, is hereby **upheld** in its entirety. Resultantly, the present Criminal Revision fails and is hereby **dismissed**.

19. Pending interlocutory applications, if any, shall stand disposed of accordingly.

20. A copy of this order be sent to the concerned trial court for information and necessary compliance.

(Jai Kumar Pillai)
Judge