



2026:AHC:126726

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 99 of 2026

Isham Singh

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Ashwani Kumar, Sati Shanker Tripathi
Counsel for Opposite Party(s) : G.A.

Court No. - 6

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. Heard learned counsel for the applicant, learned AGA for the State and perused the record.
2. By means of this application, the applicant has prayed for quashing the order dated 30.09.2025 passed by Special Judge (NDPS Act)/Additional Sessions Judge, Court No.7, Mathura in Misc. Application No.769 of 2025 arising out of Case Crime No.342 of 2025, under Sections 8/18/20/29/60 of NDPS Act, Police Station Jait, District Mathura by which the application for release of the vehicle Maruti Ciaz bearing Registration No.HR-07 V-1801 (Chassis No.MA3FXEBS00156692, Engine No.D13A2616719) has been rejected.
3. Learned counsel the applicant submits that the applicant Isham Singh is the owner of Maruti Ciaz No.HR-07 V-1801. The said vehicle was seized by the police on the ground that 100 grams charas and 03 packets Opium (Afeem) containing 1 kg. each packet, which were kept in Diggi of the said vehicle, was recovered from the said vehicle. Consequently, the applicant has filed release application before the learned Special Judge (NDPS Act)/Additional Sessions Judge, Court No.7, Mathura to release the said vehicle but the trial court while denying to release the said vehicle, rejected the said application vide order dated 30.09.2025.
4. Learned counsel for the applicant further submits that while passing the impugned order, the trial court has not properly appreciated the material on record and rejected the said application without applying his judicial mind. The applicant is not an accused in alleged case crime nor he has committed

any offence as alleged in the impugned first information report even the said vehicle was never used for any illegal activities. The applicant is having no criminal history. It is lastly submitted that unless the seized vehicle is released in favour of the applicant, he will be seriously prejudiced and there is no useful purpose to keep the vehicle detaining in the police station during pendency of trial, hence, the applicant is ready to give the sureties for releasing the vehicle.

5. In support of his submission, learned counsel for the applicant has relied upon the judgement of Hon' Apex Court in the cases of ***Bishwajit Dey vs. State of Assam (SC)*** passed in Criminal Appeal No.87 of 2025 arising out of Special Leave Petition (Crl.) No.13370 of 2024 dated 07.01.2025 and ***Sunder Bhai Amba Lal Desai v. State of Gujrat 2003 (46) ACC 223.***

6. I have gone through the impugned order. Perusal of the impugned order discloses that it is not in consonance with the requirement of Section 457 Cr. P.C. which entails that the court shall determine the question of entitlement of possession under that section. In this case it is not in dispute that the applicant was entitled to possession of the aforesaid vehicle being owner. The ownership of the said vehicle was not in dispute at all. Consequently, once the prayer before the court below was made for release of the said vehicle, the Court should have considered only the question of entitlement of possession.

7. In ***Bishwajit Dev (supra)***, the Apex Court has specifically 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.

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."

8. In ***Sunder Bhai Amba Lal Desai (supra)***, the apex court in paragraphs 14 and 15 has held, which is reproduced below:

"14. In our view, whatever be the situation. It is of no use to keep seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for returns of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

15. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the court. If the said vehicle is insured with the insurance company then insurance company be informed by the court to take possession of the vehicle which is not claimed by the owner or a third person. If insurance company fails to take possession the vehicles may be sold as per the direction of the court. The court would pass such order within a period of six months from the date of production of the said vehicle before the court. In any case, before handing over possessions of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared."

9. Considering the law laid down in the above mentioned cases, the aforesaid view certainly supports the contention of the learned counsel for the applicant that no useful purpose will be served in keeping the vehicle detained at the police station itself.

10. In view of the aforesaid discussion, the present applicant u/s 528 BNSS is disposed of with the direction that the vehicle i.e. Maruti Ciaz No.HR-07 V-1801 shall be released in favour of the applicant immediately subject to the following conditions:-

(i) Applicant shall produce the original registration certificate, insurance paper before the concerned Police Station which shall be verified properly and true attested copies thereof.

(ii) Applicant shall execute a bond with two solvent sureties to the satisfaction of the Chief Judicial Magistrate concerned.

(iii) Applicant shall keep the vehicle insured at all times till the conclusion of the trial and produce the Insurance Certificate before the Trial Court as and when required; he must satisfy the Court that he is the registered owner of the vehicle.

(iv) Applicant shall not change the colour or any part of the engine and chassis number of the vehicle.

(v) Applicant shall produce the vehicle either before the Court or before such other authorities as the Court may direct.

(vi) Applicant will not transfer the vehicle to anybody else nor possession of the same be parted with until disposal of the case.

(vii) Applicant shall not allow the vehicle to be used in the commission of any offence.

11. With the aforesaid observations/directions, the instant petition u/s 528 BNSS is finally **disposed of**.

June 11, 2026
Ajeet

(Mrs. Vani Ranjan Agrawal,J.)