RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Appeal (Sb) No. 280/2023

1. Firoz Shah S/o Nazir Shah, Aged About 26 Years, R/o Gotharsi Ps Hathunia Dist. Pratapgarh Raj. (Presently Lodged In Dist. Jail Pratapgarh)
2. Farooq Shah S/o Naru Shah, Aged About 35 Years, R/o Gotharsi Ps Hathunia Dist. Pratapgarh Raj. (Presently Lodged In Dist. Jail Pratapgarh)

----Appellants

Rajasthan High Court
सत्यमेव जयते
Web Copy - Not Official

Versus

State Of Rajasthan, Through Pp

----Respondent

For Appellant(s) : Mr. Ravi Panwar
For Respondent(s) : Mr. Sri Ram Choudhary, AGA

HON'BLE MR. JUSTICE FARJAND ALI

Order

ORDER RESERVED ON ::: 16/07/2025
ORDER PRONOUNCED ON ::: 29/*08*/2025

REPORTABLE

BY THE COURT:-

1. The matter comes upon an application preferred by the appellant seeking release of the *Motorcycle Hero Splender bearing Registration No.RJ35-SH8254***,**, which was seized by the police in connection with the alleged offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

2. Briefly stated the facts of the case are that on 21.07.2020, the SHO, PS Hathunia alongwith his team intercepted a Motorcycle Hero Splender bearing Registration No.*RJ35-SH8254***,** driven by the appellant. Upon search, three plastic sacks containing 103 kilograms of poppy husk were allegedly recovered from the said

---

(Uploaded on 01/09/2025 at 03:11:33 PM)
(Downloaded on 18/11/2026 at 03:32:05 PM)

vehicle. Consequent to seizure, both the contraband and the vehicle were taken into custody.

3. It is the contention of learned counsel for the appellant that the vehicle is a valuable property; it has been lying unattended in the open yard of the police station for nearly three years and has deteriorated in condition. The appellant, being the registered owner, has undertaken to produce the vehicle before the court whenever required. It is urged that if the vehicle is allowed to lie in police custody, it would lose its utility and economic worth, which would serve neither the purpose of justice nor the ends of the law.

4. Learned Public Prosecutor has opposed the prayer, contending that the vehicle being involved in commission of the offence is liable to be confiscated, and hence, should not be released.

5. I have heard the counsel for the parties and gone through the material as made available.

5.1. A close scrutiny of the record reveals that upon culmination of trial proceedings, the learned trial court, by judgment dated 21.01.2023, convicted the appellant and sentenced him under Section 8/15 of the NDPS Act and to undergo 15 years' rigorous imprisonment with a fine of Rs. 1,50,000/- and in default to further undergo 15 months RI. Against this conviction, the appellant preferred the present appeal, which stands duly admitted before this Court. Alongside the appeal, an application for suspension of sentence being SB Criminal 2nd Suspension of

(Uploaded on 01/09/2025 at 03:11:33 PM)
(Downloaded on 18/11/2026 at 03:32:05 PM)

Sentence No.1075/2024 was also filed, and vide order dated 21.10.2024, the appellant's sentence has been suspended during pendency of appeal.

5.2. The appellant now seeks release of the seized vehicle on the ground that he is the registered and undisputed owner, that no rival claim has ever been asserted, and that the vehicle has since remained idle in the open premises of the police station, exposed to natural decay, thereby resulting in imminent and irretrievable loss of its economic value.

6. The scheme of the Code of Criminal Procedure, 1973 obligates courts to ensure due and timely disposal of property seized during trial. Section 452 Cr.P.C. mandates that upon conclusion of a criminal trial, the court must pass a clear order regarding disposal of property produced before it, whether by way of destruction, confiscation, or delivery to the rightful claimant. Section 452 Cr.P.C. is being reproduced as under:-

> **452. Order for disposal of property at conclusion of trial.**
>
> *(1)When an inquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.*

(Uploaded on 01/09/2025 at 03:11:33 PM)
(Downloaded on 18/11/2026 at 03:32:05 PM)

Rajasthan High Court Web Copy - Not Official

(2)An order may be made under sub-section (1) for the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond, with or without sureties, to the satisfaction of the Court, engaging to restore such property to the Court if the order made under sub-section (1) is modified or set aside on appeal or revision.

(3) *A Court of Session may, instead of itself making an order under sub-section (1), direct the property to be delivered to the Chief Judicial Magistrate, who shall thereupon deal with it in the manner provided in Sections 457, 458 and 459.*

(4) *Except where the property is livestock or is subject to speedy and natural decay, or where a bond has been executed in pursuance of sub-section (2), an order made under sub-section (1) shall not be carried out for two months, or when an appeal is presented, until such appeal has been disposed of.*

(5) *In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.*

The purpose of Section 452 of the Code of Criminal Procedure is to provide a clear and comprehensive mechanism for the disposal of property or documents involved in a criminal case once the inquiry or trial has concluded. The section is intended to ensure that such property does not remain indefinitely in the

(Uploaded on 01/09/2025 at 03:11:33 PM)
(Downloaded on 18/11/2026 at 03:32:05 PM)

custody of the court but is dealt with in a manner that balances the interests of justice, the rights of lawful claimants, and the need to prevent wrongful gain or misuse.

Rajasthan High Court Web Copy - Not Official

The objectives underlying this section are:

1. *Judicial Finality in Property Matters – To empower courts, upon conclusion of trial, to pass suitable orders regarding property or documents produced before it or used in the commission of an offence.*
2. *Protection of Legitimate Possession – To secure delivery of property to the rightful owner or claimant, either unconditionally or upon furnishing bonds to safeguard appellate or revisional remedies.*
3. *Judicial Delegation – To enable Courts of Session, when appropriate, to entrust such matters to the Chief Judicial Magistrate for disposal under the prescribed procedure.*
4. *Safeguard Against Prejudice During Appeal – To ensure that property is not finally disposed of until the statutory period of appeal is over, or where an appeal is filed, until its disposal, thereby protecting appellate rights.*
5. *Comprehensive Coverage of Property – To broaden the scope of "property" so as to include not only the original property but also any substituted form, conversion, or proceeds derived therefrom, ensuring that offenders do not unjustly benefit.*

In essence, the purpose of Section 452 is to bring closure to the criminal process by providing lawful, fair, and final directions for the disposal of property involved in the case, thereby preventing uncertainty, misuse, or prolonged litigation over such property.

(Uploaded on 01/09/2025 at 03:11:33 PM)
(Downloaded on 18/11/2026 at 03:32:05 PM)

Section 454 Cr.P.C. provides a remedy of appeal against such an order, reinforcing the statutory duty of trial courts to invariably pass disposal directions contemporaneous with pronouncement of judgment.

Rajasthan High Court Web Copy - Not Official

> ***454. Appeal against orders under Section 452 or Section 453.***
>
> *(1)Any person aggrieved by an order made by a Court under Section 452 or Section 453, may appeal, against it to the Court to which appeals ordinarily lie from convictions by the former Court.*
>
> *(2)On such appeal, the Appellate Court may direct the order to be stayed pending disposal of the appeal, or may modify, alter or annul the order and make any further orders that may be just.*
>
> *(3)The powers referred to in sub-section (2) may also be exercised by a Court of appeal, confirmation or revision while dealing with the case in which the order referred to in sub-section (1) was made*.

Section 454 Cr.P.C. provides a remedy of appeal to any person aggrieved by an order of disposal of property passed by a criminal court under Section 452 (disposal after conclusion of trial) or Section 453 (payment to innocent purchaser). Its primary aim is to safeguard the rights of ownership or possession of property and to ensure that such orders, which often affect substantive rights, are subject to judicial review by a higher court.

The objects of Section 452 Cr.P.C.

1. *Protection of property rights – Orders under Sections 452 and 453 may involve destruction, confiscation, or delivery of property. Since these orders directly*

(Uploaded on 01/09/2025 at 03:11:33 PM)
(Downloaded on 18/11/2026 at 03:32:05 PM)

RAJASTHAN HIGH COURT
सत्यमेव जयते

impact property rights, Section 454 ensures that the aggrieved party is not left remediless.

2. *Judicial oversight and fairness – By allowing appeals, it ensures that decisions relating to property are not left solely to the discretion of the trial court, but are subject to correction or variation by the appellate court.*

3. *Finality of litigation – Once an appeal under Section 454 is decided, the appellate court's order becomes final, thereby ensuring certainty and preventing repeated or endless disputes over the same property.*

4. *Balancing interests – The section strikes a balance between the necessity of disposing of property connected with offences (so that it does not deteriorate or create administrative burden) and the legitimate claims of ownership or possession of individuals*

Rajasthan High Court
सत्यमेव जयते
Web Copy - Not Official

7. In the case at hand, a conspicuous omission is discernible in the judgment dated 21.01.2023, wherein, while recording conviction and imposing sentence, the learned trial court omitted to pass any order regarding the disposal of either the seized contraband or the conveyance. This failure is inconsistent with the mandatory tenor of Section 452 Cr.P.C.

8. The position of law is unequivocally settled by a catena of judgments of the Hon'ble Supreme Court:

- In ***Sunderbhai Ambalal Desai v. State of Gujarat [(2002) 10 SCC 283],*** the Court held that valuable vehicles and articles must not be permitted to languish in police

(Uploaded on 01/09/2025 at 03:11:33 PM)
(Downloaded on 18/11/2026 at 03:32:05 PM)

RAJASTHAN HIGH COURT सत्यमेव जयते

custody, exposed to the elements, and directed that interim release be ordered subject to safeguards.

- In ***Sainaba v. State of Kerala [2004 (11) SCC 146],*** the principle was reiterated that wasting assets, particularly vehicles, must be preserved by entrusting custody to the rightful owner.

Rajasthan High Court सत्यमेव जयते Web Copy - Not Official

- In ***Thanaram v. State of Rajasthan [(2005) 12 SCC 318],*** the Apex Court cautioned trial courts against dereliction of their duty under Section 452 Cr.P.C., emphasizing that specific disposal orders are imperative at the conclusion of every trial, especially where vehicles are involved.

9. It is not in dispute that the appellant is the sole registered owner of the vehicle. The appeal has been admitted, but owing to docket congestion, there is no immediate prospect of final disposal. Keeping the vehicle in the open compound of the police station would serve no purpose but to accelerate its deterioration, causing avoidable economic loss and negating the principle of preservation of national assets.

10. In view of the foregoing discussion, the statutory mandate, and authoritative pronouncements of the Hon'ble Supreme Court, this Court finds merit in the present application. Accordingly, the same is allowed and it is ordered as follows:

a. The vehicle bearing Registration No. RJ35 SH8254 shall be released to the appellant on interim custody during pendency of the appeal.

(Uploaded on 01/09/2025 at 03:11:33 PM)
(Downloaded on 18/11/2026 at 03:32:05 PM)

RAJASTHAN HIGH COURT सत्यमेव जयते

b. The appellant shall execute a Supurdginama in the sum of Rs. 50,000/- (Rupees Fifty Thousand only), supported by one surety and one security of the like amount, to the satisfaction of the learned trial court.

Rajasthan High Court सत्यमेव जयते Web Copy - Not Official

c. The appellant shall further file an undertaking before the learned trial court that:

- He shall not sell, alienate, transfer, or encumber the vehicle during pendency of the appeal;
- He shall maintain the vehicle in roadworthy condition and may use or repair it in the ordinary course;
- He shall produce the vehicle before the Court whenever directed, and in the event of dismissal of the appeal, he shall be bound to surrender the vehicle in accordance with the ultimate disposal order under Section 452 Cr.P.C.

11. To achieve the object, it is pertinent to record that, as noticed in the foregoing paragraphs, not only in the present case but also in several other matters, the learned trial Judges, while deciding cases on merits, have omitted to pass requisite orders regarding disposal of case property, contraband, or other articles involved in the proceedings. Such omission is a legal defect, being inconsistent with the statutory mandate of Section 452 Cr.P.C., and cannot be countenanced. It is, therefore, imperative that this lapse does not recur in future. Consequently, it becomes necessary to communicate this order across the State of Rajasthan and to sensitize all trial courts that, at the time of final adjudication of every case, a specific and reasoned order regarding disposal of case property, contraband, or relevant

(Uploaded on 01/09/2025 at 03:11:33 PM)
(Downloaded on 18/11/2026 at 03:32:05 PM)

articles must invariably be passed. For this purpose, the aforesaid order shall also be directed to be circulated for uniform compliance.

12. The Registrar General, Rajasthan High Court is directed that a copy of this order be transmitted to the trial court for scrupulous compliance, with a further direction that subordinate courts shall henceforth ensure that specific disposal orders under Section 452 Cr.P.C. are invariably passed contemporaneously with pronouncement of judgment, so as to obviate avoidable litigation and deterioration of property.

(FARJAND ALI),J

68-Mamta/-

(Uploaded on 01/09/2025 at 03:11:33 PM)
(Downloaded on 18/11/2026 at 03:32:05 PM)