



Crl.R.C.No. 1767 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2025

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THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

Crl.R.C.No. 1767 of 2025

Dhivya Bharathi

...Petitioner

Vs

The State, Represented by

The Inspector of Police

Mangalam Police Station

Thiruvannamalai District

Crime No. 04 of 2025.

...Respondent

Prayer: Criminal Revision Case is filed under Section 438 and 442 of BNSS, 2023 praying to set aside the order passed by the learned Special Judge for EC/NDPS Act, Salem in Crl.M.P.No. 502 of 2025, dated 10.07.2025 and direct the respondent police to return motor cycle Registration No. TN-25-CD-6483 & Motor Cycle Model Dio-Smart, having Engine No.JF98EW7001408 and Chasis No. ME4JF98GGPW000521, which was seized by the respondent police in Crime No. 04/2025.

For Petitioner : Mr.S.Dheerendran

For Respondent : Mr.C.E.Pratap

Government Advocate, Criminal Side.

ORDER

Criminal Revision Case is filed seeking to set aside the order passed by the learned Special Judge for EC/NDPS Act, Salem in Crl.M.P.No. 502 of 2025, dated 10.07.2025 and direct the respondent police to return motor cycle Registration No. TN-25-CD-6483 & Motor Cycle Model Dio-Smart, having



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Engine No.JF98EW7001408 and Chasis No. ME4JF98GGPW000521, which was seized by the respondent police in Crime No. 04/2025.

2.The allegation against the petitioner is that on 01.01.2025, the husband of the petitioner herein tried to sell Ganja in a public at large and subsequently, the respondent police arrested the accused with the possession of 5.100 kg of Ganja

3.The learned Counsel for the petitioner submitted that the petitioner is ranked as A2 and she is the wife of A1. He further submitted that her husband, namely, Karthi (a) Abdul Hameed taken her vehicle for some personal use and he was not aware of the illegal transportation of the contraband products in the vehicle and the petitioner is suffering from cancer and therefore, she prays to set aside the impugned order passed by the Trial Court and return the vehicle to her.

4.The learned Government Advocate, [Criminal Advocate] appearing for the respondent police reiterated the prosecution case and submitted that the petitioner is ranked as A2, who is the wife of A1. If the vehicle is handed over to the petitioner, the first accused would indulge in similar offences in the future and therefore, he strongly opposed to hand over the vehicle.



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5.I have also gone through the orders passed by the Trial Court, which reveals that the petitioner is the owner of the subject vehicle. The petitioner filed a Crl.M.P.No. 502 of 2025 under Section 497 of BNSS, Act, seeking return of the vehicle which belongs to the petitioner, bearing Registration No.TN-25-CD-6483 before the learned Special Judge for EC/NDPS Act, Salem, in Crime No. 04 of 2025 for the offences under Sections 8(c) r/w Section 20(b)(ii)(B) of NDPS Act, which was seized by the respondent police. After perusing the relevant records, the Trial Court dismissed the petition by order dated 10.07.2025 on the ground that the petitioner was the husband of A1 and if the vehicle is handed over to the petitioner, there is a likelihood for committing the same offence. Aggrieved over the same, the petitioner has come forward with the present petition before this Court.

6.As per the proposition laid down in ***Loyola Johnson Vs. The State, Represented by the Inspector of Police, Pomban Police Station***, reported in ***2025 (1) L.W. (Criminal) 57***, a learned Judge of this Court in Nahoorkani Vs. State, represented by the Inspector of Police, Puliyangudi Police Station in Crl.R.C.(MD) No. 41 of 2019 Dated 16.06.2025 has held that in view of the provision under Section 63 of NDPS Act, the provisions of the code of Criminal Procedure as contained in Sections 451 and 452 of CrPC., will stand modified to the extent and any claimant to the property will be obliged to satisfy the Court in terms of the exceptions carved out in Sections 60, 61 and



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62 of NDPS Act before he is returned the custody of the vehicle taken into consideration when it was being used for transporting a narcotic substance, that therefore, when the conveyance was seized under NDPS Act, the return of property does not arise as contemplated under Sections 451 and 452 CrPC, and it is liable to be confiscated under Section 63 of NDPS Act and that the Magistrate may not have jurisdiction to entertain a petition filed under Section 451 CrPC in the light of the Special Rule made under Section 52A of NDPS Act. It is pertinent to note that the learned Judge has also issued several directions to the Special Courts and the investigating officers with regard to the disposal of the conveyances seized under NDPS Act.

7.Considering the above facts and circumstances of the case and in view of the above rulings cited supra, this Criminal Revision Case is disposed of. However, the petitioner the trial Court is directed to consider the request of the petitioner herein and dispose of the matter in accordance with law within a period of three weeks from the date of receipt of a copy of this order

19.09.2025

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T.V.THAMILSELVI, J.

MSM

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