



CrI.O.P.No.26679 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2025

CORAM:

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.26679 of 2025

Banu Prathap Shetty

...Petitioner

Vs.

The Inspector of Police,
R.S.Puram Police Station,
Coimbatore District.
(Crime No.155 of 2025)

...Respondent

Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita/Section 482 Cr.P.C., to set aside the docket order dated 19.09.2025 passed in CrI.M.P.Sr.No.5558 of 2025 on the file of the learned Presiding Officer, Special Court for cases under NDPS Act, Coimbatore and return the vehicle bearing Registration No.TN 66 L 0047 seized by the respondent police in connection to Crime No.155 of 2025.

For Petitioner : Mr.Vikram Veerasamy

For Respondent : Mr.K.M.D.Muhilan, APP

ORDER

The present criminal original petition has been filed seeking to quash the docket order dated 19.09.2025 passed in CrI.M.P.Sr.No.5558 of



CrI.O.P.No.26679 of 2025

2025 by the learned Presiding Officer, Special Court for cases under NDPS Act, Coimbatore and to consequently, return the vehicle bearing Registration No.TN-66-L-0047 seized by the respondent police in connection with Crime No.155 of 2025.

2. It is the case of the prosecution that based on secret information received by the respondent police with regard to sale of contraband by the accused persons, the respondent seized several contrabands, mobile phones and vehicles from the accused persons and registered the present complaint in Crime No.155 of 2025 for the offences under Sections 8(c), 20(b)(ii)(B), 22(b), 22(c), 25 and 29(1) of NDPS Act and Section 4(1)(a) of the Tamil Nadu Prohibition Act and Section 4(1)(C) of the Tamil Nadu Prohibition (Amendment) Act, 2024.

3.1 Learned counsel for the petitioner submitted the petitioner is the owner of the vehicle bearing Registration No.TN-66-L-0047 and the same was seized by the respondent-police in connection with Crime No.155 of 2025 and that he is the father of one Krisrohan Shetty, who has been arrayed as the 7th accused and his son has used his vehicle without his knowledge. He further submitted that the petitioner is in no way connected with the crime and is not arrayed as an accused in the offence. Therefore,

2/12



seeking interim custody of the said vehicle, a petition under Section 497 r/w.

503 of BNSS was filed before the trial Court in CrI.M.P.Sr.No.5558 of 2025. However, the trial Court returned the said petition by holding as under:

“As per the guidelines of the Hon’ble High Court of Madras in Roc.No.10143-A/2025/F1 dated 18.06.2025 all the properties concerned in the cases under NDPS Act are to be handed over to Drug Disposal Committee for destruction and disposal as the case may be. Hence, this petition is returned.”

3.2 Challenging the same, the petitioner has come up with the present criminal original petition. In support of his contention, the learned counsel for the petitioner relied upon the decision of the Hon’ble Apex Court in the case of ***Denash Vs. The State of Tamil Nadu*** in ***SLP (Crl.) No(s).8698 of 2025***, wherein the Hon’ble Apex Court had ordered for release of vehicle. Accoridngly, he prayed for setting aside the impugned docket order dated 19.09.2025 passed in CrI.M.P.Sr.No.5558 of 2025 and to consequently, return the vehicle bearing Registration No.TN-66-L-0047 seized by the respondent police in connection with Crime No.155 of 2025, in favour of the petitioner.



CrI.O.P.No.26679 of 2025

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent, though did not dispute the above submission made by the learned counsel for the petitioner, however, by relying on the very same decision of the Hon'ble Apex Court in Denash's case (*supra*) submitted that the exercise of such judicial discretion is to be guided by the facts and circumstances of each case and should be undertaken in a manner that safeguards the rights of a *bona fide* owner and at the same time balancing the need for detention of the vehicle/conveyance in appropriate cases. He further submitted that the petitioner is bound to prove before the trial court that the subject vehicle has been used by the accused persons without his knowledge. He also submitted that the involvement or otherwise of the petitioner would be known only after the investigation is completed and if the vehicle is released, it may be used for similar purpose of trafficking of narcotic substances and, appreciating all the aforesaid facts, the trial court had rejected the claim for interim custody of the vehicle and, therefore, no interference is warranted with the said decision and, accordingly, seeks dismissal of the present petition.

5. Heard the learned counsel on either side and perused the materials available on record.



WEB COPY

6. For better appreciation, the relevant portion of the decision of the Hon'ble Apex Court in Denash's case (*supra*) is extracted hereunder:-

*“27. On the contrary, the Rules of 2022 restrict the mode of disposal of a seized conveyance to "tender or auction", as may be determined by the Drug Disposal Committee. However, this restrictive procedural framework must necessarily be read in harmony with the parent statute. The Rules, being subordinate legislation, cannot override or curtail the substantive rights and procedural safeguards envisaged under the parent legislation that is the NDPS Act. In **Bishwajit Dey (supra)**, this Court observed that the provisions of the NDPS Act do not bar the concerned Court from exercising its discretion, to release the vehicle in interim custody. While the Act provides for confiscation in appropriate cases, it does not preclude the Court from granting interim release of the vehicle where the circumstances so warrant. The exercise of such judicial discretion is to be guided by the facts and circumstances of each case and should be undertaken in a manner that safeguards the rights of a bona fide owner at the same time balancing the need for detention of the vehicle/conveyance in appropriate cases.*

28. Moreover, Sections 36-C and 51 of the NDPS Act expressly make the provisions of the CrPC/BNSS applicable to proceedings before the Special Court, insofar as they are not inconsistent with the provisions of the NDPS Act. Consequently, the powers under Sections 451 and 457 of CrPC [Sections 497 and 503 of BNSS) pertaining to disposal of property pending trial, would certainly apply to proceedings before the Special Court. In the absence of an express bar under the NDPS Act, the mere fact that a vehicle may be liable to confiscation under Section 60 cannot, by itself, operate to deny interim custody to a bona fide owner.



29. Accordingly, we have no hesitation in holding that the Rules of 2022 cannot be interpreted as divesting the Special Courts of their jurisdiction to entertain an application for interim custody or release of a seized conveyance under Sections 451 and 457 of CrPC [Sections 497 and 503 of BNSS]. The authority of the Special Court to pass appropriate orders for interim custody during the pendency of the trial, as well as to make final determination upon its conclusion, continues to operate independently of the disposal mechanism envisaged under the said Rules. Any interpretation to the contrary would lead to anomalous and unjust consequences by depriving a bona fide owner of his property without judicial scrutiny or an opportunity of hearing, an outcome wholly inconsistent with the statutory scheme of the NDPS Act and contrary to the fundamental principles of natural justice.

30. Hence, we are of the considered view that the interpretation given by the High Court, holding that pursuant to the promulgation of the Rules of 2022, all other forums, including the Special Court, are divested of the jurisdiction to decide the fate of a seized conveyance under the NDPS Act and that the aggrieved person must necessarily approach the Drug Disposal Committee, is unsustainable in the eyes of law.

31. In the present case, it is manifest that the appellant is the true owner of the vehicle, having valid documents. The vehicle was lawfully engaged for transportation of iron sheets weighing 29,400 MT. The seized drug, Le., 6 kilograms Ganja was found in possession of the four accused persons present in the vehicle. Neither was the appellant chargesheeted in the matter nor did the prosecution allege him to be acting in conspiracy. As a necessary corollary, it can safely be presumed that the said contraband must have been procured by the drivers and/or the khalasis without the knowledge or connivance of the appellant.

32. Having regard to the valuable consignment being transported and the high value of the vehicle, it does not stand to reason that the appellant, being the owner thereof, would



knowingly jeopardize his business and property by permitting the transportation of 6 kilograms of Ganja alongside such valuable cargo.

33. The situation at hand may be examined with reference to the principles enunciated by this Court in paragraphs 29 and 30 of **Bishwajit Dey (supra)**, wherein four scenarios were delineated concerning the seizure of contraband from a conveyance, along with the general approach to be adopted by Courts while considering the question of interim release of such conveyances. Paragraphs 29 and 30 of **Bishwajit Dey (supra)**, are extracted herein below for ready reference: -

"29. 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.



30. 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.

31. 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)

34. Although, on a superficial reading, the present case might appear to fall within the second scenario delineated in **Bishwajit Dey (supra)**, where contraband is recovered from the owner's agent (driver) who is arrayed as an accused, however, the application of criminal law cannot be reduced to a rigid or mechanical formula. Each case must be examined in light of its peculiar facts and circumstances. In the present matter, a holistic consideration of the record reveals that the facts do not align strictly with the said category for the following reasons:-



i- Firstly, the appellant is the lawful owner with valid documents, and the vehicle was commercially engaged in transporting a valuable consignment of 29,400 MT of iron sheets. It is highly improbable to believe that he would risk both the costly vehicle and the high value consigned goods and his business goodwill by knowingly allowing narcotics to be transported along with the cargo.

ii- Secondly, the contraband, ie., 6 kilograms of Ganja was recovered from the four chargesheeted accused persons.

iii- Thirdly, the appellant was not arraigned as an accused and the chargesheet contains no material suggesting that the appellant had knowledge of or connived in the offence.

iv- It can thus, safely be presumed that the said contraband must have been procured by the drivers and/or the khalasis without the knowledge or connivance of the appellant.

*35. In view of the above, while the present case may technically correspond to the second scenario as enumerated in paragraph 29 of **Bishwajit Dey(supra)**, the peculiar factual matrix warrants a more pragmatic approach. It would, therefore, be expedient in the interest of justice to grant interim custody of the vehicle to the appellant, as the overall circumstances clearly indicate his bonafides and absence of any involvement in the drugs being carried in the vehicle.*

36. In wake of the discussion made hereinabove, the appeal deserves to succeed. The impugned judgment dated 20th December, 2024 passed by the High Court is accordingly set aside. The vehicle bearing Registration No. TN 52 Q 0315 shall be released on supurdagi to the appellant on such terms and conditions, which the Special Court may impose.

37. The appeal is allowed accordingly.”

(Emphasis supplied by this Court)



Crl.O.P.No.26679 of 2025

7. On a perusal of the above decision, it is evident that the Supreme Court held that Special Courts retain the authority under Sections 451 and 457 of the Cr.P.C. to grant interim custody of vehicles seized under the NDPS Act, even after the 2022 amendment to the Drug Disposal Rules and that the innocent owners, not involved in the crime, should not face undue hardship and therefore, the Hon'ble Apex Court confirmed that, despite strict NDPS provisions, the power to manage seized property during trials remains with the courts, prioritizing justice for innocent owners.

8. In view of the above and also considering the facts and circumstances of the case, particularly the fact that the petitioner is not an accused, this Court is inclined to allow this petition.

9. Accordingly, the impugned docket order dated 19.09.2025 passed by the learned Presiding Officer, Special Court for cases under NDPS Act, Coimbatore in Crl.M.P.Sr.No.5558 of 2025 is set aside.

10. Registry is directed to return the original papers to the learned counsel for the petitioner as expeditiously as possible, enabling the petitioner to re-present the same before the Court below.



Crl.O.P.No.26679 of 2025

11. Upon re-presentation of such petition by the petitioner, the learned Presiding Officer, Special Court for cases under NDPS Act, Coimbatore, shall consider the same on merits and in terms of the judgment of the Hon'ble Apex Court in Denash's case (*supra*) and pass appropriate orders within a period of two weeks from the date of re-presentation of the petition under Sections 497 r/w. 503 of BNSS, by the petitioner.

12. With the above directions and observations, this criminal original petition stands allowed

31.10.2025

skt

Neutral Citation: Yes/No

Note to office: Issue order copy on 05.02.2026.

To

1. The Presiding Officer,
Special Court for cases under NDPS Act,
Coimbatore.
2. The Inspector of Police,
R.S.Puram Police Station,
Coimbatore District.
3. The Public Prosecutor,
High Court of Madras.

11/12



WEB COPY



CrI.O.P.No.26679 of 2025

A.D.JAGADISH CHANDIRA, J.

skt

CrI.O.P.No.26679 of 2025

31.10.2025