



CrI.OP.No.33623 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2025

CORAM:

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

CrI.OP.No.33623 of 2025

Mohamed Abdul Kader Seyed

...Petitioner

Vs.

The State, Rep. by Inspector of Police,
Ambattur Police Station,
Prohibition Enforcement Wing (PEW),
Ambattur, Chennai – 600 053.
(Crime No.164 of 2025)

...Respondent

Criminal Original Petition filed under Section 528 of the BNSS, 2023 to call for the records relating to the impugned docket order dated 18.11.2025 passed by the learned Principal Special Judge, Principal Special Court under EC and NDPS Act, Chennai in CrI.MP.SR.No.10033 of 2025 and set aside the same and consequently direct the learned Principal Special Judge, Principal Special Court under EC and NDPS Act, Chennai to number CrI.MP.SR.No.10033 of 2025.

For Petitioner : Mr.S.Sarath Kumar

For Respondent : Mr.S.Santhosh, GA(CrI. Side)



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ORDER

This criminal original petition has been filed seeking quashment of the docket order dated 18.11.2025 passed by the learned Principal Special Judge, Principal Special Court under EC and NDPS Act, Chennai in CrI.MP.SR.No.10033 of 2025 and to consequently, direct the learned Principal Special Judge, Principal Special Court under EC and NDPS Act, Chennai to number CrI.MP.SR.No.10033 of 2025.

2. It is the case of the petitioner that he filed an application under Sections 497 and 503 of the BNSS in CrI.MP.SR.No.10033 of 2025 seeking return of vehicle bearing Regn.No.TN-65-H-0050. However, the learned Principal Special Judge, Principal Special Court under EC and NDPS Act, Chennai, vide impugned docket order dated 18.11.2025, returned the said petition stating as follows:

“Property not deposited to this Court. Hence returned.

As per circular of Hon’ble High Court in ROC.No.70917/A/2025/F1, dated 01.09.2025, u/s. 497, 501 of BNSS cannot be invoked. Hence, this petition is returned.”

Challenging the same, the petitioner has come up with this petition.



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3. Learned counsel for the petitioner submitted that the petitioner is not an accused and hence, he filed a petition seeking return of his vehicle. However, the Court below, without considering any of the above said facts had returned the same, vide impugned docket order, which is not sustainable. Accordingly, he prayed for appropriate orders.

4. Learned Government Advocate (Crl. Side) appearing for the respondent submitted that the subject vehicle is yet to be deposited before the court below, since the court below is not accepting the vehicle. He further submitted that the subject vehicle has been seized in connection with the FIR in Crime No.164 of 2025 registered for the offences under Sections 8(c) r/w. Sections 20(b)(ii)(c), 29(1) and 25 of the NDPS Act and admittedly, the petitioner is not an accused.

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

6. At the outset, it is felicitous to point out that the Hon'ble Supreme Court in ***Denash Vs. State of Tamil Nadu*** reported in ***2025 SCC Online SC***



2276 has set out the circumstances under which return of vehicle can be ordered. The Hon'ble Supreme Court, while ordering so, placed reliance on

the judgment in ***Bishwajit Dey Vs. State of Assam*** reported in 2025 INSC

32. The relevant paragraphs from *Bishwajit Dey's* case (*supra*) are extracted 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 possession of contraband where the the drugs/substance is recovered. Secondly. 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



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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.

(Emphasis supplied by this Court)

7. In view of the aforesaid ratio laid down by the Hon'ble Supreme Court, this Court is inclined to set aside the impugned order and accordingly, the impugned return docket order dated 18.11.2025 passed by the learned Principal Special Judge, Principal Special Court under EC and NDPS Act, Chennai in Crl.MP.SR.No.10033 of 2025 returning the petition filed under Sections 497 and 503 of the BNSS is set aside.

8. The petitioner is directed to file a fresh petition under Sections 497 and 503 of the BNSS seeking return of vehicle bearing Regn.No.TN-65-H-0050. Upon filing of such petition, the learned Principal Special Judge, Principal Special Court under EC and NDPS Act, Chennai, shall consider the same and pass appropriate order on merits and in accordance with law as expeditiously as possible.



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9. With the above observations and directions, this criminal original petition stands allowed. Consequently, the connected miscellaneous petition is closed.

11.12.2025

skt

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To:

1. The Principal Special Judge,
Principal Special Court under EC and NDPS Act, Chennai.

2. The Inspector of Police,
Ambattur Police Station,
Prohibition Enforcement Wing (PEW),
Ambattur, Chennai – 600 053.

3. The Public Prosecutor,
Madras High Court.



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A.D.JAGADISH CHANDIRA, J.

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