

CrI.R.C(MD)No.16 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.01.2025

Pronounced on : 11.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

CrI.R.C(MD)No.16 of 2025

N.Mallika

... Petitioner

Vs.

State of Tamil Nadu rep. by
The Station House Officer,
Karimedu Police Station,
Madurai City.
(Crime No.186 of 2024)

... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, 2023, to call for the records and to set aside the order, dated 11.11.2024 made in Cr.M.P.No.2819 of 2024 on the file of the Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai.

For Petitioner : Mr.C.Senthil Murugan

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



ORDER

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This Criminal Revision Case is filed against the order, dated 11.11.2024, passed in Crl.M.P.No.2819 of 2024 on the file of the learned Principal Special Court under NDPS Act Cases, Madurai for return of Auto Rickshaw bearing registration number TN-58-V-2089, which was seized by the respondent police in Crime No.186 of 2024.

2.The brief facts of the case:

It is alleged that on 30.04.2024 at 20.45 hours, while the respondent police intercepted the Auto Rickshaw bearing registration number TN-58-V-2089 the respondent police found 1 $\frac{3}{4}$ kg of ganja and seized from the driver of the vehicle, who was arrayed as Accused No.4/Muthuprabakaran. For the alleged occurrence, a case was registered in Crime No.186 of 2024 by the respondent police against the accused for the alleged offence under Sections 8(c), 20(b)(ii)(B) and 29(1) of the NDPS Act. The respondent seized 1 $\frac{3}{4}$ kg ganja and also seized the vehicle. The petitioner, who is said to be the owner of the vehicle, has filed the petition in Crl.M.P.No.2819 of 2024 before the Principal Special Court under NDPS Act Cases, Madurai for return of property on interim custody. After hearing both sides, the petition was dismissed on 11.11.2024.



3. Being aggrieved by the order, the revision petitioner preferred this Criminal Revision Case.

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4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the records in this Criminal Revision Case.

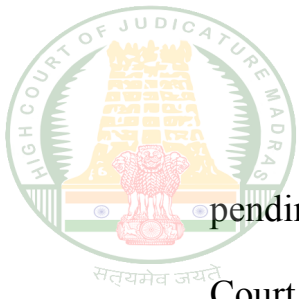
5. The learned counsel appearing for the revision petitioner has submitted that the petitioner is not an accused in this case. The petitioner used to let her Auto Rickshaw to auto drivers on rental basis and the rental income is the only source of income for the petitioner. During the relevant period, she rented out the vehicle to one Auto driver, who is arrayed as Accused No.4/Muthuprabakaran in this case and as she had not received rental income and after enquiry she came to know that the petitioner's vehicle was seized by the respondent police and the same has been kept idle in the respondent's police station without any maintenance. The petitioner's vehicle is kept idle in an open place from the date of seizure and the vehicle will get ruined by sunlight and rain and it would lose its value. The trial Court has not considered the guidelines in the case of return of property as settled by the Hon'ble High Court and Supreme Court.



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6. The learned Additional Public Prosecutor appearing for the respondent objected and contended that the vehicle was remanded before the trial Court in RPR.No.139 of 2024 and the charge sheet has also been filed after investigation and the same has been taken on cognizance as C.C.No.340 of 2024 by the trial Court. The respondent has made preparations for confiscation of seized vehicle, however, so far confiscation proceeding has not been initiated. The vehicle was seized with contraband. If the interim custody of the vehicle is ordered, there are more possibilities for not cooperating for investigation and the petitioner may alter the physical conditions of the vehicle. The trial Court has correctly appreciated the facts of the case and dismissed the petition. If the vehicle is returned, the petitioner would allow her vehicle for continuance of the offence of this similar nature. Therefore, he strongly opposed this petition.

7. On hearing both sides, it is clear that the petitioner is not an accused in this case. The petitioner's auto rickshaw was seized under the NDPS Act and the same has been in police custody. It is also clear that the property in question was remanded before the trial Court under RPR.No.139 of 2024 and also the final report was filed and the case is

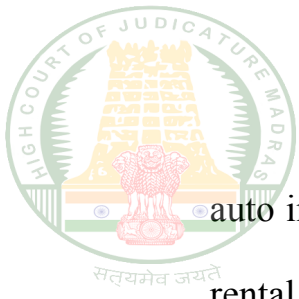


pending as C.C.No.340 of 2024 on the file of the I Additional Special

Court for NDPS Act Cases, Madurai. It is the settled principle by the Hon'ble Supreme Court held in **Sunderbhai Ambalal Desai** case, there is no use in keeping seized vehicles at the police station in open place exposing to sunlight and rain for a long period and it is open to pass appropriate orders for return of seized vehicles on conditions.

8. The learned Single Judge of the Principal Seat of this Court has also ordered for release of vehicle involved in NDPS Cases for interim custody in Crl.R.C.Nos.1010 of 2023, 993 of 2023, 787 of 2023, 562 of 2023 and 1241 of 2023 and following the above, this Court has also ordered in Crl.R.C(MD)No.1251 of 2023 on 05.03.2024 for release of vehicle seized under the NDPS Act. In a recent case, the Hon'ble Supreme Court has held that if no specific allegation is made against the owner or his agent like driver or cleaner in nature of this crime the vehicle should normally be released and the decision is reported in **CDJ 2025 SC 040 (Bishwajit Dey /v/ State of Assam)**.

9. In the case on hand, there is no allegation on the respondent's side that the petitioner has participated in the offence or has knowledge of the alleged transaction. The petitioner states that she purchased the



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auto in 2009 and is letting the Auto to auto drivers on rental basis as the rental income is only her income source. The vehicle is in custody from 30.04.2024 i.e., for more than 8 months. In the above facts and circumstances and also in view of the guidelines issued in the **Sunderbhai Ambalal Desai case** reported in **2003 (1) CTC 175**, this Court is inclined to allow this criminal revision case and to return the seized Auto Rickshaw to the petitioner on interim custody on conditions.

10. Accordingly, this Criminal Revision Case is allowed and the order, dated 11.11.2024 passed in Crl.M.P.No.2819 of 2024 on the file of the Principal Special Court under NDPS Act Cases, Madurai, is hereby set aside. The auto rickshaw bearing registration No.TN-58-V-2089 is ordered to be returned to the petitioner on interim custody subject to the confiscation proceedings to be taken by the concerned department or by the Court on the following conditions.

(i) The petitioner shall execute a bond for a sum of **Rs.1,00,000/- (Rupees One Lakh only)** with two sureties for the like sum to the satisfaction of the Principal Special Court under NDPS Act Cases, Madurai;

(ii) The vehicle shall be photographed in different angle and the engine and chassis number shall also be photographed in the presence of the Head Clerk of the



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Principal Special Court under NDPS Act Cases, Madurai at the cost of the petitioner and the petitioner's signature to be obtained in the back side of the photographs and the said photographs and CD shall be kept in the case bundle for the purpose of marking them as material objects during trial;

(iii) The petitioner shall deposit the original Registration Certificate of the vehicle before the Principal Special Court under NDPS Act Cases, Madurai;

(vi) The petitioner shall produce the vehicle before the Principal Special Court under NDPS Act Cases, Madurai monthly once i.e., on the first working day of every month and also before the respondent police as and when required;

(v) The petitioner shall participate to the confiscation proceedings which is to be initiated or in case of pending and shall produce the vehicle before the confiscation authority;

(vi) The petitioner shall not dispose or alienate or change the physical features of the vehicle till the disposal of the case or till the disposal of the confiscation proceeding;



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(vii) The petitioner shall cooperate with the trial Court for disposal of the case and also to complete the confiscation proceedings.

11. The order passed in this revision will not be a bar to the authorities concerned in proceeding with the confiscation proceedings. This order is subject to the outcome of the confiscation proceedings.

11.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

1. The Principal Special Court for NDPS Act Cases,
Madurai.
2. The Station House Officer,
Karimedu Police Station,
Madurai City.
(Crime No.186 of 2024)
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.16 of 2025

11.03.2025