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Crl.R.C(MD)No.76 of 2025



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.01.2025

Pronounced on : 12.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.76 of 2025

Mariammal

... Petitioner

Vs.

State rep. by
The Inspector of Police,
V.K.Pudur Police Station,
Tenkasi District.
Crime No.10 of 2024

... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, to call for the records pertaining to the order passed in Cr.M.P.No.2275 of 2024 on the file of the Judicial Magistrate Court, Alangulam, dated 16.04.2024 and set aside the same by allowing the revision petition.

For Petitioner : Mr.P.Suresh

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.side)



ORDER

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This Criminal Revision Case is filed against the order, dated 16.04.2024 passed in Crl.M.P.No.2275 of 2024 on the file of the learned Judicial Magistrate, Alangulam for return of two wheeler bearing registration number TN 76 AE 1431, which was seized by the respondent police in Crime No.10 of 2024.

2.The brief facts of the case:

It is alleged that the respondent police seized the petitioner's vehicle bearing registration No.TN 76 AE 1431 on the allegation that the vehicle was used for transportation of 500 grams of ganja. A case was registered in Crime No.10 of 2024 by the respondent police against the accused for the offence under Sections 294(b), 353, 506(ii) IPC and Section 20(b)(ii)(A) of NDPS Act. The respondent seized the 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.2275 of 2024 before the Judicial Magistrate Court, Alangulam, for return of property on interim custody. After hearing both, the petition was dismissed on 16.04.2024.

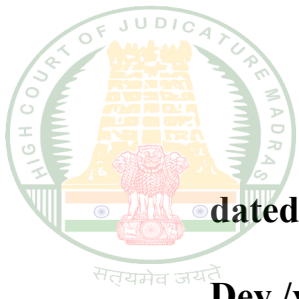
3. Being aggrieved by the order, the revision petitioner preferred this Criminal Revision Case.



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4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) 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 the owner of the vehicle and she is not arrayed as accused in this case. The petitioner's vehicle is not involved in this crime. 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 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 in **Sundarabai Ambalal Desai case** reported in **2003 (1) CTC 175**. The learned counsel further submitted that the petitioner has not participated in the commission of crime or has knowledge of the crime and the vehicle may be returned to the custody of the petitioner. The learned counsel has also relied on the order passed by this Court in Crl.R.C(MD)No.1251 of 2023, dated 05.03.2024 and also the recent Supreme Court's decision rendered in **Crl.A.No.87 of 2025**



dated 07.01.2025 reported in CDJ 2025 SC 040 (Bishwajit

Dey /v/State of Assam.

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6. The learned Government Advocate (Crl.side) for the respondent objected and contended that the vehicle was used by the petitioner's son, who is arrayed as Accused No.1, for transportation of contraband. The seized vehicle was remanded before the trial Court in RPRNo.101 of 2024, however, confiscation proceedings has not been initiated so far and the same is pending for process. 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 the accused in this case. The petitioner's vehicle was seized under the NDPS Act on the allegation that the vehicle was utilized for transportation of 500 grams contraband. The vehicle has been in police custody. It is also



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clear that the property in question was remanded before the trial Court under RPRNo.101/2024. 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 NDPS Act. As rightly argued by the learned counsel for the petitioner, 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



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about the alleged transaction. The vehicle has been in custody for the past 9 months from the date of seizure. 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 two wheeler to the petitioner on interim custody on conditions.

10. Accordingly, this Criminal Revision Case is allowed and the order, dated 16.04.2024, passed in Crl.M.P.No.2275 of 2024 on the file of the learned Judicial Magistrate, Alangulam, is hereby set aside. The two wheeler bearing registration No.TN-76-AE-1431 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.**50,000/- (Rupees Fifty Thousand only)** with two sureties for the like sum to the satisfaction of the Judicial Magistrate Court, Alangulam.

(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 Judicial Magistrate Court,



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CrI.R.C(MD)No.76 of 2025



Alangulam 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 Judicial Magistrate Court, Alangulam.

(iv) The petitioner shall produce the vehicle before the Judicial Magistrate Court, Alangulam 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.

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



complete the confiscation proceedings.

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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.

12.03.2025

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

To

1.The Judicial Magistrate Court,
Alangulam.

2.The Inspector of Police,
V.K.Pudur Police Station,
Tenkasi District.
Crime No.10 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.76 of 2025

12.03.2025