



CRL RC(MD)No.75 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 29.08.2025

PRONOUNCED ON : 27.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.75 of 2024

Marimuthu

... Petitioner

Vs.

State, Rep. by
The Sub Inspector of Police,
Thanjavur West Police Station,
Thanjavur District
(Crime No.294/2023)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 483 r/w. 442 of BNSS, 2023, to call for the records from the lower the and aside order passed in Cr.M.P No.6648 of 2023 dated 09.01.2024 on the file of the Learned Additional District Judge/ Presiding Officer, Special Court Under Essential Commodities Act, Thanjavur District.

For Petitioner : Mr.K.Prabhu

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor



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ORDER

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Preface:

This Criminal Revision Case is directed against the order dated 09.01.2024 in Cr.M.P.No.6648 of 2023 passed by the learned Additional District Judge, Special Court under Essential Commodities Act, Thanjavur District, whereby the petitioner's request for interim custody of his heavy goods vehicle – Ashok Leyland TAARAS Lorry bearing Registration No. TN-76-AV-5563 – seized in Crime No.294 of 2023 for alleged offences under Section 8(c) r/w 20(b)(ii)(C) of the NDPS Act, 1985, came to be rejected.

2. The case of the prosecution, as projected in the FIR and in the counter to Cr.M.P.No.6648 of 2023, is briefly as follows:

On 06.03.2023, a case in Crime No.294 of 2023 was registered on the file of Thanjavur West Police Station for offences under Section 8(c) r/w 20(b)(ii)(C) of the NDPS Act, alleging transport of ganja in commercial quantity. The vehicle involved is Ashok Leyland TAARAS Lorry bearing Registration No. TN-76-AV-5563, a heavy goods carrier. The prosecution claims that the vehicle was used to carry contraband ganja while ostensibly transporting rice from Andhra Pradesh to Kerala.



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3. The lorry was intercepted, searched, and contraband ganja was allegedly recovered from within the vehicle. The contraband and the lorry were seized and treated as case properties in Crime No.294 of 2023. The seized lorry was produced before the jurisdictional Court and assigned NDCP No.35 of 2023. The prosecution asserts that the vehicle was not claimed by its owner for more than two months from the date of seizure and that it is not in running condition.

4. Relying upon an earlier order of this Court in CrI.R.C.(MD) No. 41 of 2019 dated 16.06.2023, the prosecution contends that unclaimed vehicles seized in NDPS cases are liable to be confiscated under Section 63 of the NDPS Act if the owner does not claim them within two months of seizure. On that premise, the prosecution sought appropriate orders for confiscation of the vehicle and opposed interim release.

Case of the Petitioner:

5. The petitioner, who is arrayed as Accused No.6 in Crime No. 294 of 2023, sets out his case as follows:

He is the registered owner of the TAARAS Lorry bearing Reg. No. TN-76-AV-5563, which is a heavy vehicle / goods carrier used for



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transporting goods on hire. The said vehicle is engaged in lawful commercial transport, carrying goods for various customers to their respective destinations. The petitioner regularly lets out the vehicle on hire. On 06.03.2023, the lorry was driven by the petitioner's driver, allegedly carrying rice from Andhra Pradesh to Kerala, when it was intercepted by the respondent police, who later claimed that it was also carrying ganja. The petitioner maintains that he is in no way connected with the alleged occurrence or the other accused and that he had no knowledge that his vehicle was being misused for transporting contraband.

6. He further pleads that in the FIR, the place of occurrence is wrongly mentioned as Karunthattankudi instead of Chennai, which indicates inaccuracies in the prosecution version. He asserts that he is the sole breadwinner of his family. His only income is from hiring out the said lorry, and the earnings therefrom go towards maintaining the family and servicing the loan / running expenses of the vehicle. The vehicle, after seizure, is lying idle, exposed to weather and natural decay. If it is not released, it will deteriorate irretrievably, and he will suffer serious hardship, mental agony, and financial loss. On these premises, he filed Cr.M.P.No.6648 of 2023 seeking interim custody of



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the TAARAS vehicle bearing Reg. No. TN-76-AV-5563, undertaking to produce it as and when required and to comply with any conditions that may be imposed by the Court.

Gist of the Impugned Order:

7. By the impugned order dated 09.01.2024, the learned Additional District Judge, Special Court under Essential Commodities Act, Thanjavur, dismissed Cr.M.P.No.6648 of 2023. The reasoning, in essence is as below:

The TAARAS Lorry bearing Reg. No. TN-76-AV-5563 was seized in Crime No.294 of 2023 for offences under Section 8(c) r/w 20(b)(ii)(C) of the NDPS Act and produced before the Court in NDCP No.35 of 2023. The vehicle was unclaimed by the owner for more than two months from the date of seizure, and it is not in running condition. This Court in CrI.R.C.(MD) No.41 of 2019 directed that if a vehicle seized in connection with NDPS offences remains unclaimed by the owner for more than two months, it may be confiscated under Section 63 of the NDPS Act. Since, according to the prosecution, the owner remained silent and did not claim the vehicle from 06.03.2023 onwards, the prosecution is justified in seeking confiscation. On that basis, the learned Judge held that the petitioner is not entitled to interim custody



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and dismissed his petition.

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Grounds of Revision:

8. The petitioner assails the impugned order broadly on the following grounds: that the learned Trial Court erred in treating the vehicle as “unclaimed” when the petitioner, as a registered owner, has now come forward, asserted ownership, and sought interim custody. Mere delay in claiming does not constitute abandonment or disentitle him to be heard on custody. The reliance on CrI.R.C.(MD) No.41 of 2019 is misplaced and mechanical, since that order was concerned with vehicles lying truly unclaimed / abandoned, not with cases where the owner appears and contests. The learned Trial Court has short-circuited the statutory procedure under Section 63 of the NDPS Act, which mandates notice and hearing of the claimant before deciding confiscation.

9. The learned Judge failed to consider Sections 451 and 457 Cr.P.C., 1973, (now Sections 497 and 503 BNSS), which confer power upon criminal Courts to make orders regarding custody and interim delivery of seized property. The impugned order runs contrary to the approach laid down by the Hon’ble Supreme Court in **Sunderbhai**



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Ambalal Desai v. State of Gujarat¹, Bishwajit Dey v. State of Assam², and Denash v. State of Tamil Nadu³, which recognise the power and, in appropriate cases, the duty of Courts to release seized vehicles to bona fide owners on stringent conditions rather than allowing them to rot in police custody. The learned Trial Court failed to take into account the economic impact on the petitioner, whose livelihood depends on the lorry and who continues to bear financial burdens like loan instalments and maintenance.

Submissions:

10. Mr. K. Prabhu, the learned counsel for the petitioner, submitted that the petitioner is the registered owner of the vehicle and that he can produce RC book, insurance and other documents. There is no dispute on ownership. The vehicle is a commercial goods carrier, hired out in the ordinary course of business. The fact that contraband was allegedly found in the load area does not by itself implicate the owner in the absence of proof of knowledge or connivance.

1 (2002) 10 SCC 283

2 2025 INSC 32

3 2025 SCC OnLine 2276



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11. Section 60(3) of the NDPS Act expressly protects an owner who proves that the conveyance was used without his knowledge or connivance and that he and his agent took all reasonable precautions. The learned Trial Court, by presuming the vehicle to be liable for confiscation due to two months of non-claim, has nullified this statutory protection. Under Section 63 of the NDPS Act, confiscation of a conveyance can only be ordered by the Court, after issuing notice and hearing the claimant. To treat the vehicle as automatically liable for confiscation because it was not claimed for a specified period is to pre-judge and remove the very adjudicatory safeguard that the statute provides.

12. By virtue of Sections 36-C and 51 of the NDPS Act, the provisions of the Cr.P.C., 1973, / BNSS continue to apply to NDPS proceedings except where inconsistent. There is no inconsistency between granting interim custody under Sections 451 / 457 Cr.P.C., 1973,; 497 / 503 BNSS, 2023, and later deciding confiscation under Sections 60 and 63 of the NDPS Act.

13. Relying upon ***Sunderbhai Ambalal Desai v. State of***



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Gujarat⁴, the learned Counsel contended that, the Hon' ble Supreme Court has held that seized vehicles should not be allowed to remain in police custody for years and should be released to the owner on appropriate terms, as prolonged retention serves no purpose and leads only to decay.

14. The learned counsel further drew strength from the reasoning in **Bishwajit Dey v. State of Assam**⁵, wherein the Hon' ble Supreme Court classified scenarios of seizure from conveyances and observed that where an owner or bona fide claimant is not shown to be complicit, the vehicle ought ordinarily to be released with appropriate conditions.

15. The learned counsel also referred to **Denash v. State of Tamil Nadu**⁶, where the Hon' ble Supreme Court, dealing with the NDPS framework and disposal rules, clarified that administrative or disposal mechanisms cannot divest Courts of their jurisdiction to grant interim custody to innocent owners and cannot supplant judicial

⁴ (2002) 10 SCC 283

⁵ 2025 INSC 32

⁶ 2025 SCC OnLine 2276



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determination of confiscation. On these premises, it was argued that the impugned order is contrary to law and deserves to be set aside, and that the vehicle should be released to the petitioner.

16. Per contra, Mr. T. Senthil Kumar, learned Additional Public Prosecutor, contended that the vehicle in question was seized in a serious NDPS case involving commercial quantity of ganja, and the lorry is a key material object. The petitioner did not claim the vehicle for more than two months after seizure, and therefore the prosecution proceeded on the footing that it was “unclaimed”, relying on CrI.R.C.(MD) No.41 of 2019.

17. NDPS is a special law which aims at deterrence and stringent control. More importantly conveyances used for transporting narcotics are made statutorily liable to confiscation under Section 60 of the NDPS Act, and Courts should be slow to order their release. If vehicles seized in NDPS offences are freely released on interim custody, there is a real risk that they may not be available for production at trial or for the purpose of confiscation. The learned Additional Public Prosecutor categorically contended that, the learned Special Court has, therefore,

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rightly applied the earlier direction of this Court and rejected the prayer for interim custody, and no interference under revisional jurisdiction is warranted.

18. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for Consideration:

19. In view of the rival submissions, the point that arises for determination is Whether, in the facts and circumstances of the case, the learned Special Court was justified in refusing interim custody of the TAARAS lorry bearing Reg. No. TN-76-AV-5563 to the petitioner by treating the vehicle as “unclaimed” and fit for confiscation under Section 63 of the NDPS Act, and whether this Court, applying the relevant provisions of the NDPS Act, the BNSS and the law laid down in ***Sunderbhai Ambalal Desai v. State of Gujarat***⁷, ***Bishwajit Dey v. State of Assam***⁸ and ***Denash v. State of Tamil Nadu***⁹, ought to grant

⁷ (2002) 10 SCC 283

⁸ 2025 INSC 32

⁹ 2025 SCC OnLine 2276



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interim custody to the petitioner with suitable conditions.

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Analysis:

20. Section 36-C of the NDPS Act makes it clear that the provisions of the Code of Criminal Procedure apply to proceedings before the learned Special Courts “save as otherwise provided in this Act”. Section 51 of the NDPS Act further declares that the provisions of the Cr.P.C., 1973, shall apply to warrants, arrests, searches and seizures under the Act, insofar as they are not inconsistent with the provisions of the NDPS Act.

21. Section 451 of the Cr.P.C., 1973, (now Section 497 BNSS) empowers the criminal Court to make appropriate orders for the proper custody of any property pending enquiry or trial, and if necessary to order sale or disposal where the property is subject to speedy decay. Section 457 of the Cr.P.C., 1973, (now Section 503 BNSS) deals with property seized by the police and reported to a Magistrate, empowering the Court to order its delivery to the person entitled to possession or to pass such orders as it thinks fit. There is no express inconsistency between these general provisions and the NDPS Act.



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22. On the contrary, the NDPS Act itself builds in procedural safeguards for property and conveyances Section 60(3) of the NDPS Act makes a conveyance liable to confiscation if used in carrying narcotic drugs, unless the owner proves that it was used without his knowledge or connivance and that he and his agent took reasonable precautions. Section 63 of the NDPS Act mandates that the Court must adjudicate confiscation after giving an opportunity of being heard to persons claiming any right in the conveyance, and only then can an order of confiscation be passed. Thus, while the NDPS Act is a special statute in respect of offences and sentencing, it does not displace the criminal Court's jurisdiction to regulate interim custody of seized property. That jurisdiction continues by virtue of Sections 36-C and 51 of the NDPS Act, read with Sections 497 and 503 of the BNSS.

23. Confiscation of a conveyance under the NDPS Act is, a penal consequence, to be ordered judicially, only after the Court is satisfied that the statutory preconditions are met, and only after the claimant is heard. A mere seizure or the lapse of any period of time after seizure does not automatically translate into confiscation. Nor can a vehicle be treated as unconditionally liable for confiscation merely because the owner did not immediately rush to claim it. To read CrI.R.C.(MD) No.41



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of 2019 as laying down an automatic rule that non-claim for two months equals irreversible confiscation would be to bypass Sections 60(3) and 63 of the NDPS Act and the constitutional guarantee of property under Article 300-A of the Constitution.

24. In ***Sunderbhai Ambalal Desai v. State of Gujarat***¹⁰, the Hon'ble Supreme Court deprecated the practice of keeping seized vehicles in police custody for long durations and held that Courts should pass appropriate orders under Section 451 of the Cr.P.C., 1973, for return of vehicles to their owners and impose such conditions as necessary, because the vehicles deteriorate if left in open yards, there is little evidentiary advantage in producing a rusted, disfigured vehicle at trial and public interest is better served by avoiding waste of assets.

25. In ***Bishwajit Dey v. State of Assam***¹¹, the Hon'ble Supreme Court, dealing specifically with seized vehicles, delineated different scenarios, including seizures from the registered owner himself; a person in lawful possession as agent or lessee; a third party without authority; and situations where neither owner nor agent is implicated.

¹⁰ (2002) 10 SCC 283

¹¹ 2025 INSC 32



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The Court emphasised that where an owner or apparent bona fide claimant is not shown to be complicit, the normal rule should be to release the vehicle on interim custody, subject to conditions, since criminal law cannot operate in a vacuum and cannot ignore the real-world economic impact of indefinite detention of commercial vehicles.

26. In ***Denash v. State of Tamil Nadu***¹², the Hon'ble Supreme Court addressed the interplay between the NDPS Act, the general criminal procedure, and the administrative mechanisms for disposal of seized property (under rules framed thereunder). The Court, in substance, held that administrative rules or committees (such as Drug Disposal Committees) are mechanisms of implementation, not Courts of law. Such mechanisms cannot divest the criminal Court of its jurisdiction under Sections 451 / 457 of the Cr.P.C., 1973, (or their successors under BNSS) to grant interim custody to innocent owners. The adjudication of confiscation remains with the criminal Court under Sections 60 and 63 of the NDPS Act and hence administrative bodies cannot preempt or supplant that judicial function. A bona fide owner whose vehicle has been misused without his knowledge cannot be left remediless or relegated solely to challenge administrative decisions after the vehicle is disposed of.

¹² 2025 SCC OnLine 2276



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27. The ratio of ***Bishwajit Dey v. State of Assam***¹³ and ***Denash v. State of Tamil Nadu***¹⁴ is that the Courts are not only empowered but are, in suitable cases, duty-bound to alleviate unnecessary hardship by granting interim custody to bona fide owners, while preserving the interest of prosecution through bonds and undertakings.

28. The learned Trial Court has placed heavy reliance on this Court's earlier order in CrI.R.C.(MD) No.41 of 2019. That order, however, was aimed at addressing the specific problem of vehicles lying truly unclaimed or abandoned in police custody, clogging space and serving no purpose.

29. In the present case, the petitioner has appeared as Accuse No. 6, asserted ownership and sought interim custody. There is no material to show that he has renounced or abandoned his rights in the vehicle. The question of his knowledge or connivance is a matter for trial, and more particularly for determination under Section 60(3) of the NDPS Act at the stage of confiscation proceedings under Section 63 of the NDPS Act. To treat the vehicle as "unclaimed" solely because the owner did

¹³ 2025 INSC 32

¹⁴ 2025 SCC OnLine 2276



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not claim it within two months is to convert an administrative direction aimed at disposal of genuinely unclaimed vehicles into a rigid substantive rule of automatic confiscation. Such an interpretation is incompatible with the statutory safeguards and with the Hon'ble Supreme Court's later exposition in ***Bishwajit Dey v. State of Assam***¹⁵ and ***Denash v. State of Tamil Nadu***¹⁶.

30. Applying the above legal position to the facts that the petitioner is the registered owner of the TAARAS lorry and claims to use it as a goods carrier on hire. There is no material presently placed before this Court to show prior involvement in NDPS offences or habitual use of the vehicle for illegal purposes. The vehicle is commercial in nature; it is tied to the petitioner's livelihood and is potentially subject to loan and other financial obligations. The allegation that contraband was recovered from the vehicle does not automatically establish the owner's knowledge or connivance. That issue must await evidence and is squarely within the eventual province of the learned Trial Court acting under Section 63 of the NDPS Act. The vehicle, if retained indefinitely in police custody, will continue to deteriorate. This serves no useful purpose and, as recognised in ***Sunderbhai Ambalal***

15 2025 INSC 32

16 2025 SCC OnLine 2276

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Desai v. State of Gujarat¹⁷, ultimately harms both the owner and the public interest. The prosecution's legitimate concern that the vehicle should be available for inspection, evidence or potential confiscation – can be adequately safeguarded by: recording photographs and identifying details (engine / chassis numbers); requiring the petitioner to furnish a substantial bond and sureties; imposing conditions against alienation or alteration; and binding the petitioner to produce the vehicle whenever directed and to abide by any eventual order of confiscation.

31. In the limited domain of interim custody, this Court is satisfied that the petitioner has made out a *prima facie* case as a bona fide owner who should not be compelled to suffer the needless destruction of his livelihood asset pending trial, especially when the law, as explained in **Bishwajit Dey v. State of Assam**¹⁸ and **Denash v. State of Tamil Nadu**¹⁹, favours conditional release in such circumstances.

¹⁷ (2002) 10 SCC 283

¹⁸ 2025 INSC 32

¹⁹ 2025 SCC OnLine 2276



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32. Accordingly, the impugned order warrants interference.

33. In the result, this Criminal Revision Petition is allowed. The order dated 09.01.2024 passed in Cr.M.P.No.6648 of 2023 on the file of the learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities Act, Thanjavur District, is set aside.

34. The respondent police are directed to release the Ashok Leyland TAARAS Lorry bearing Registration No. TN-76-AV-5563 to the petitioner on interim custody, subject to the following conditions:

- (a) the petitioner is directed to deposit a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** as non-refundable deposit for the said vehicle to the credit of the Siddha Clinic, Madurai Bench of Madras High Court (A/c No.6865578213, Indian Bank, Madurai Bench of Madras High Court);
- (b) the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)**, with two sureties for a likesum to the satisfaction of the learned Additional District Judge/ Presiding Officer, Special Court Under Essential Commodities Act, Thanjavur District;
- (c) the petitioner shall deposit the original Registration Certificate



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of the vehicle before the learned Additional District Judge/
Presiding Officer, Special Court Under Essential Commodities
Act, Thanjavur District;

- (d) The petitioner shall give an undertaking before the
respondent/ authority concerned stating that he will not use
the vehicle in question for any illegal activities in future, failing
which the respondent/trial Court is at liberty to confiscate the
vehicle;
- (e) the petitioner shall not alienate and shall not make any
alteration in the vehicle;
- (f) the petitioner shall produce the vehicle before the learned Trial
Court on every Monday of every English calendar month;

35. It is made clear that the present order pertains only to interim custody of the vehicle and shall not be construed as expressing any opinion on the merits of the prosecution in Crime No.294 of 2023 or on the ultimate question of confiscation, which shall be decided independently by the Trial Court on the basis of evidence.



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36. With the above directions, this Criminal Revision case is allowed.

27.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

- 1.The Additional District Judge/
Presiding Officer,
Special Court Under Essential
Commodities Act, Thanjavur District.
- 2.The Sub Inspector of Police,
Thanjavur West Police Station,
Thanjavur District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

Sml

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