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Crl.R.C(MD)No.126 of 2025



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.01.2025

Pronounced on : 09.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.126 of 2025

Pethuraj

... Petitioner

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Koodalpudur Police Station,
Madurai City.
Crime No.471 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.3957 of 2024 on the file of the Principal Special Court for Narcotic Drugs and Psychotropic Substance Act Cases, Madurai dated 03.01.2025 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)



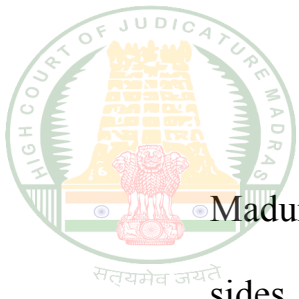
ORDER

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This Criminal Revision Case is filed against the order, dated 03.01.2025 passed in Crl.M.P.No.3957 of 2024 on the file of the Principal Special Court for NDPS Act Cases, Madurai for return of two wheeler bearing registration number TN-59-CK-0779, which was seized by the respondent police in Crime No.471 of 2024.

2.The brief facts of the case:

It is alleged that on 24.08.2024 at 9.30 a.m., while the respondent police were inspecting the vehicles near Ayyanar Kovil, Kosakulam, Madurai where the suspects came in their vehicles, they were transporting ganja weighing about 1.250 kg. Respondent police seized the ganja, aruval, and vehicles bearing registration Nos.TN 59 CK 0779, TN 31 CH 6793, TN 64 Z 3730 and also three Apple Brand iPhones. For the alleged occurrence, a case was registered in Crime No.471 of 2024 by the respondent police against them for the offence under Sections 8(c), 20(b)(ii)(B), 25, 29(1) of NDPS Act and U/s.25(1)(a) of Arms Act. The petitioner, who is said to be the owner of the vehicle bearing registration No.TN-59-CK-0779 has filed the petition in Crl.M.P.No. 3957 of 2024 before the Principal Special Court for NDPS Act Cases,



Madurai for return of property on interim custody. After hearing both sides, the petition was dismissed by the said Court on 03.01.2025.

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3. Aggrieved by the order of dismissal, the revision petitioner preferred this Criminal Revision Case.

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 not an accused in this case. The petitioner's vehicle is falsely implicated in this case. 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 depends upon his vehicle for his day to day affairs. The respondent police has not followed the guidelines issued by the Hon'ble Supreme Court in the **Sunderbhai Ambalal Desai** case. 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

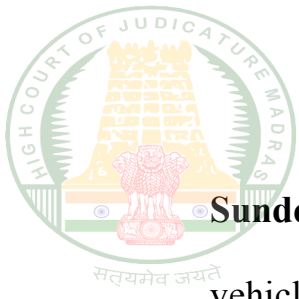


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return of property as settled by the High Courts and Hon'ble Supreme Court. The respondent police has not initiated any confiscation proceedings. In support of his arguments, the learned counsel has relied on the judgment of the Hon'ble Supreme Court in **Crl.A.No.87 of 2025 (Bishwajit Dey /v/ The State of Assam)** and the order of this Court passed in **Crl.R.C(MD)No.1251 of 2023, dated 05.03.2024.**

6. The learned Government Advocate (Crl.side) for the respondent objected and contended that the vehicle was used by the accused for transportation of contraband and remanded before the trial Court in RPRNo.445 of 2024. The petitioner is not an accused. The vehicle was seized with contraband. If the interim custody of the vehicle is ordered, the petitioner may alter the physical conditions of the vehicle and the petitioner would allow his vehicle for continuance of 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 vehicle was seized under 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 RPRNo.445/2024. It is the settled principle by the Hon'ble Supreme Court held in the



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Sunderbhai Ambalal Desai case, there is no use in keeping seized vehicles at 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.No.1251 of 2023 on 05.03.2024 for release of vehicle seized under 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)**. 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. 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** and **Biswhajit** case **CDJ 2025 SC 040**, 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.

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9. Accordingly, this Criminal Revision Case is allowed and the order, dated 03.01.2025, passed in Crl.M.P.No.3957 of 2024 on the file of the Principal Special Court for NDPS Act Cases, Madurai, is hereby set aside. The two wheeler bearing registration No.TN-59-CK-0779 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 Principal Special Court for 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 Principal Special Court for 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 for NDPS Act Cases, Madurai.



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(iv) The petitioner shall produce the vehicle before the Principal Special Court for 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 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.

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

10. 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.

09.04.2025

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



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To

1.The Principal Special Judge for NDPS Act Cases,
Madurai.

2.The Inspector of Police,
Koodalpudur Police Station,
Madurai City.
Crime No.471 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.126 of 2025

09.04.2025