



CRL RC(MD)No.787 of 2025

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.787 of 2025

P.Selvakumar

... Petitioner

Vs.

The State of TamilNadu,
Rep. by The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.
(Crime No.912 /2024)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 438 r/w. 442 of BNSS, 2023, to call for the records relating to the impugned order passed in CrI.M.P.No.8537 of 2024 on the file of the learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities Act, Thanjavur, dated 09.01.2025 and to set aside the same as illegal.

For Petitioner : Mr.Abinesh Babu

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



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ORDER

This Criminal Revision Petition is directed against the order dated 09.01.2025 passed in CrI.M.P.No.8537 of 2024 by the learned Additional District Judge , Special Court under the Essential Commodities Act, Thanjavur, whereby the request of the petitioner for interim custody of a lorry seized in connection with an offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter “NDPS Act”) came to be rejected.

Case of the Prosecution:

2. The brief case of the prosecution, as projected in the FIR and the materials placed before the Court, is as follows. Crime No.912 of 2021 was registered on the file of Thanjavur Taluk Police Station for an offence punishable under Section 8(c) read with 20(b)(ii)(C) of the NDPS Act. The prosecution alleges that on 01.07.2021, the Thanjavur Taluk Police intercepted an Ashok Leyland lorry bearing Registration No.TN-52-E-6775. Upon conducting a search of the said lorry, the police are said to have recovered 26.500 kilograms of ganja being transported in the vehicle. The contraband was seized under a mahazar and the



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lorry was treated as the conveyance used in the commission of the offence. In the course of investigation, the present petitioner was arrayed as A3. The seized vehicle continues to remain in the custody of the respondent police as case property.

Case of the Petitioner:

3. The petitioner, in Crl.M.P.No.8537 of 2024, contended that he is the registered owner of the Ashok Leyland lorry bearing Registration No.TN-52-E-6775. While he stands arrayed as A3 in the case, he asserts that the lorry was being operated by others and that he had no knowledge whatsoever of any ganja being transported in the said vehicle. He further states that the lorry is his primary means of livelihood, that it is ordinarily used for regular goods transport, and that his family's sustenance depends substantially upon the income arising from the operation of the vehicle.

4. The petitioner also pointed out that ever since its seizure on 01.07.2021, the lorry has been lying idle in the premises of the police station without being put to use, that it is exposed to sun, rain and other natural elements, and that as a result, both its mechanical



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condition and market value are deteriorating irretrievably. He submitted that he is willing to produce the lorry whenever required by the Court or the Investigating Officer, that he undertakes not to alienate or encumber the vehicle, and that he will not permit its use for any illegal purpose. On these premises, he invoked the powers of the Court corresponding to Sections 451 and 457 Cr.P.C. (now Sections 497 and 503 BNSS), praying for interim return of the lorry to his custody.

Stand of the Prosecution Before the Trial Court:

5. The respondent police filed an objection before the trial Court opposing the grant of interim custody. They contended that the lorry is directly involved in the commission of the NDPS offence, having allegedly been used to transport 26.5 kilograms of ganja, and that if the vehicle is returned to the petitioner, it may once again be used for illegal activities. On this basis, the prosecution pressed for dismissal of the petition. No further detailed factual or legal reasoning appears to have been set out in the objection.

Gist of the Impugned Order:

6. By order dated 09.01.2025 in CrI.M.P.No.8537 of 2024, the



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learned Additional District Judge / Presiding Officer, Special Court under the Essential Commodities Act, Thanjavur, dismissed the petitioner's application for interim custody. From a reading of the impugned order as made available, it is seen that the Court took note of the fact that the lorry had been seized in connection with an NDPS offence, accepted the prosecution's objection that the vehicle is liable to be confiscated and could be misused if returned, and on that premise, declined to exercise its power to release the vehicle on interim custody. The order does not discuss the effect of Sections 60(3) and 63 of the NDPS Act, does not consider the applicability of Sections 497 and 503 of the BNSS, and does not allude to or apply the principles laid down by the Hon'ble Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat**¹, **Sainaba v. State of Kerala**², **Bishwajit Dey v. State of Assam**³, **Tarun Kumar Majhi v. State of West Bengal**⁴ or **Denash v. State of Tamil Nadu**⁵.

1 (2002) 10 SCC 283

2 2022 SCC OnLine SC 1784

3 2025 INSC 32

4 2025 SCC OnLine SC 2362

5 2025 SCC OnLine 2276



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Grounds of Revision:

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7. The petitioner has assailed the impugned order on several grounds. He contends that the learned trial Judge erred in proceeding on the assumption that merely because the vehicle has been seized in connection with an NDPS case and the petitioner is an accused therein, interim custody is, by that fact alone, barred. It is further contended that the Court failed to consider the statutory safeguards built into Section 60(3) of the NDPS Act, which enables an owner to avoid confiscation by demonstrating absence of knowledge or connivance and due precautions, as well as Section 63 of the NDPS Act, which mandates a judicial determination on confiscation after hearing the owner or any claimant.

8. The petitioner also submits that the Court below did not advert to its general powers under Sections 497 and 503 BNSS (corresponding to Sections 451 and 457 Cr.P.C.) to pass orders designed to prevent deterioration of seized property pending inquiry or trial while simultaneously securing its availability for evidentiary purposes. It is argued that the order is contrary to the binding law declared by the Hon'ble Supreme Court in **Denash v. State of Tamil Nadu**⁶ and

⁶ 2025 SCC OnLine 2276



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Bishwajit Dey v. State of Assam⁷, wherein it has been held that courts do have jurisdiction to order interim release of vehicles even in NDPS matters. He emphasises that the lorry has been lying in custody since 01.07.2021, that is, for more than four years, and that continued detention is causing grave financial hardship and irreparable loss of value. On this basis, the impugned order is characterised as arbitrary, contrary to law and warranting interference.

Submissions:

9. The learned counsel for the petitioner, drawing support from the line of reasoning adopted by the Hon'ble Supreme Court in **Denash v. State of Tamil Nadu**⁸ and **Bishwajit Dey v. State of Assam**⁹, submitted that Sections 36-C and 51 of the NDPS Act expressly apply the provisions of the Code of Criminal Procedure (now BNSS) to proceedings before the Special Court, insofar as they are not inconsistent with the NDPS Act. He submitted that there is no provision in the NDPS Act which prohibits the grant of interim custody of a seized vehicle, even where such vehicle forms part of the subject matter of an

⁷ 2025 INSC 32

⁸ 2025 SCC OnLine 2276

⁹ 2025 INSC 32



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NDPS prosecution. According to him, Sections 497 and 503 BNSS invest the criminal court with the power to pass appropriate orders for interim custody, preservation and delivery of property pending inquiry, trial or appeal.

10. He further contended that Section 52-A of the NDPS Act and the 2022 Disposal Rules concern only inventory, storage and disposal of seized articles through administrative mechanisms such as the Drug Disposal Committee and cannot be construed as divesting the criminal court of its judicial powers under Sections 497 and 503 BNSS. He pointed out that liability to confiscation under Section 60(3) NDPS Act is not automatic but has to be decided in a judicial enquiry under Section 63 after hearing the owner. In **Bishwajit Dey v. State of Assam**¹⁰, the Hon'ble Supreme Court had identified various scenarios involving seizure of contraband from conveyances and held that even in NDPS cases, courts can and should release vehicles on superdari in appropriate cases, subject to adequate safeguards. In **Denash v. State of Tamil Nadu**¹¹, the Hon'ble Supreme Court clarified that the 2022 Rules cannot be interpreted as divesting Special Courts of their

¹⁰ 2025 INSC 32

¹¹ 2025 SCC OnLine 2276



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jurisdiction under Sections 451 and 457 Cr.P.C. (now 497 and 503 BNSs).

11. The learned counsel emphasised that the petitioner is the registered owner, that the vehicle constitutes his means of livelihood, and that it has been decaying in the police station for years. He stressed that any apprehension of misuse can be addressed by imposing strict conditions, such as a heavy bond, solvent sureties, an order of non-alienation and an undertaking to produce the vehicle whenever required.

12. Per contra, the learned Additional Public Prosecutor contended that the lorry was directly used for transporting 26.5 kilograms of ganja, which falls under commercial quantity, and that the petitioner himself is arrayed as A3. It was argued that the present case, in which the owner is an accused, stands on a different footing from that of a third-party owner and falls within the category where the Hon'ble Supreme Court has advised caution in granting interim custody. It was further argued that NDPS is a stringent, special statute designed to combat a serious social menace, that vehicles so used are



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liable for confiscation and that premature return may frustrate such confiscation. The learned Additional Public Prosecutor referred to the spirit of the judgment in Union of India v. Mohanlal and argued that strict implementation of the NDPS regime and the Disposal Rules is called for. On this basis, he sought dismissal of the revision petition.

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

Point for Consideration:

14. In the light of the foregoing, the point that arises for determination in this revision is whether, in the facts and circumstances of the case, the learned Special Court was justified in refusing interim custody of the Ashok Leyland lorry bearing Registration No.TN-52-E-6775 to the petitioner, who stands arrayed as A3, or whether, having regard to the provisions of Sections 497 and 503 BNSS, Sections 52-A, 60(3) and 63 of the NDPS Act, the 2022 Disposal Rules and the law laid down in ***Denash v. State of Tamil Nadu***¹² and ***Bishwajit Dey v. State of Assam***¹³, the petitioner is entitled to interim

12 2025 SCC OnLine 2276

13 2025 INSC 32

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release of the lorry on appropriate conditions.

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Analysis:

15. At the outset, it is necessary to advert to the statutory framework as between the general procedure and the special law. Sections 497 and 503 of the BNSS, which correspond to Sections 451 and 457 of the Code of Criminal Procedure, confer on criminal courts broad powers to make orders for the proper custody of property pending the conclusion of an inquiry, trial or appeal and, where circumstances so warrant, to deliver such property to a person claiming to be entitled to possession, subject to such conditions as may be imposed. These provisions are intended, inter alia, to prevent property, particularly vehicles and other valuable assets, from being wasted or destroyed through prolonged stagnation in police custody.

16. By virtue of Sections 36-C and 51 of the NDPS Act, the provisions of the Code of Criminal Procedure (and now the BNSS) apply to all proceedings before the Special Court and to all warrants, arrests, searches and seizures under the NDPS Act, insofar as they are not inconsistent with the Act. There is no provision in the NDPS Act which



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declares that a vehicle seized in connection with an NDPS case cannot be released on interim custody to its owner, whether or not he is an accused. On the contrary, Sections 60(3) and 63 of the NDPS Act clearly contemplate that the question of confiscation of a conveyance is a matter for judicial determination, to be decided after giving the owner an opportunity to show that the vehicle was used without his knowledge or connivance and that he had taken reasonable precautions.

17. Section 52-A of the NDPS Act, along with the 2022 Disposal Rules framed thereunder, provides a mechanism for inventory, certification, storage and disposal, including through the Drug Disposal Committee, of seized narcotics, psychotropic substances, controlled substances and conveyances. The Hon'ble Supreme Court, in **Denash v. State of Tamil Nadu**¹⁴, has explained that these rules are supplemental and procedural in nature and cannot override the substantive provisions of the NDPS Act or divest criminal courts of their jurisdiction under the Code / BNSS to pass interim orders in respect of seized property. The role of the Drug Disposal Committee is administrative and not adjudicatory; it does not decide on ownership or on the liability of a vehicle to be confiscated under Section 60(3).

¹⁴ 2025 SCC OnLine 2276



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18. The jurisprudence relating to interim custody of seized vehicles has also been clarified in a line of decisions of the Hon'ble Supreme Court. In **Sunderbhai Ambalal Desai v. State of Gujarat**¹⁵, the Supreme Court strongly deprecated the practice of keeping vehicles in police custody for long periods, pointing out that such vehicles inevitably deteriorate, lose their value and become unserviceable by the time trials are concluded. The Court held that Magistrates should ordinarily pass orders for release of such vehicles to their owners or claimants on appropriate terms. In **Sainaba v. State of Kerala**¹⁶, the Supreme Court applied these principles even in an NDPS context and directed release of a seized vehicle subject to conditions, reaffirming that the powers under Section 451 Cr.P.C. (now Section 497 BNSS) are available even in NDPS matters.

19. In **Bishwajit Dey v. State of Assam**¹⁷, the Supreme Court classified different situations involving seizure of contraband from conveyances and emphasised that the response of criminal courts must be tailored to the facts of each case. It was made clear that where the

¹⁵ (2002) 10 SCC 283

¹⁶ 2022 SCC OnLine SC 1784

¹⁷ 2025 INSC 32



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owner is not implicated and there is no material to suggest knowledge, connivance or negligence, interim custody should normally be granted on superdari, subject to suitable conditions. Even where the owner is an accused, the Court did not lay down any absolute bar on interim release, but stressed the need for a careful and fact-sensitive approach.

20. In ***Denash v. State of Tamil Nadu***¹⁸, the Supreme Court categorically held that the framing of the 2022 Disposal Rules does not curtail or extinguish the power of criminal courts under Sections 451 and 457 Cr.P.C. (now Sections 497 and 503 BNSS) to pass appropriate orders for interim custody of vehicles seized in NDPS cases. The Court reiterated that confiscation of a conveyance is a judicial act governed by Sections 60(3) and 63 NDPS Act and cannot be presumed or pre-empted merely because a vehicle has been seized and produced before a Drug Disposal Committee.

21. Turning to the facts of the present case, it is true that, unlike a pure third-party owner, the petitioner stands arrayed as A3 in the prosecution. This feature calls for added caution but does not, by itself, render interim custody legally impermissible. The lorry in question has

¹⁸ 2025 SCC OnLine 2276



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been lying in custody since 01.07.2021. More than four years have elapsed. A heavy transport vehicle left idle in an open yard without regular operation and maintenance is subject to serious mechanical deterioration and depreciation. The petitioner asserts that the lorry is his means of livelihood and that he depends on it to support his family. There is nothing on record to suggest any previous conviction or habitual involvement in similar offences.

22. At this stage, the Court is not called upon to pronounce on the petitioner's guilt or innocence or to decide the issue of confiscation. Those issues are matters for trial and, if occasion arises, for proceedings under Section 63 of the NDPS Act. For the limited purpose of interim custody, the Court must balance the public interest in effectively prosecuting NDPS offences and preserving property for possible confiscation against the private interest of the owner in preventing his asset from being destroyed by neglect.

23. This balance can, in the considered view of this Court, be satisfactorily maintained by imposing stringent conditions governing the use, production and non-alienation of the vehicle, coupled with



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adequate financial security in the form of a bond and solvent sureties.

The apprehension that the vehicle may be misused or not produced in future is speculative and can be addressed by such conditions. On the other hand, if the lorry is kept indefinitely in the station yard, it will almost certainly become unfit for road use and lose its economic value, resulting in irreparable prejudice to the petitioner. The NDPS Act, as interpreted by the Hon'ble Supreme Court in the aforesaid decisions, does not compel such waste.

24. In the circumstances, this Court is of the view that the learned trial Judge has taken an unduly restrictive view of his powers, has failed to apply the correct principles emanating from Sections 497 and 503 BNSS and Sections 60(3) and 63 NDPS Act, and has not given due weight to the binding pronouncements of the Hon'ble Supreme Court in **Denash v. State of Tamil Nadu**¹⁹ and **Bishwajit Dey v. State of Assam**²⁰. The impugned order cannot therefore be sustained.

25. In the result, this Criminal Revision Petition is allowed. The order dated 09.01.2025 passed in CrI.M.P.No.8537 of 2024 by the

¹⁹ 2025 SCC OnLine 2276

²⁰ 2025 INSC 32



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learned Additional District Judge / Presiding Officer, Special Court under the Essential Commodities Act, Thanjavur, is set aside.

26. The respondent police are directed to release the Ashok Leyland lorry bearing Registration No.TN-52-E-6775 to the petitioner on interim custody, subject to the following conditions:

- (a) the petitioner is directed to deposit a sum of **Rs.1,00,000/- (Rupees One Lakh 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;
- (c) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities Act, Thanjavur;



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- (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;

27. It is made clear that this order deals only with the question of interim custody of the vehicle and shall not be construed as expressing any opinion on the merits of the prosecution case in Crime No.912 of 2021 or on the ultimate liability of the vehicle to be confiscated under the NDPS Act.

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

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Internet : Yes
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To

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



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L.VICTORIA GOWRI, J.,

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