



CRL RC(MD)No.729 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.729 of 2025

Vetrivel

... Petitioner

Vs.

State of Tamil Nadu,
Rep. by
The Inspector of Police,
Devathanapatti Police Station,
Theni District.
(Crime No.276 of 2024)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 438 r/w. 442 of BNSS, 2023, to set aside the order passed by the learned Principal court for NDPS act cases, Madurai, in CrI.M.P.No. 428 of 2025 dated 10.03.2025 and subsequently direct the trial Court to return the petitioner's vehicle bearing registration No. TN 59 CL 7012 Maruthi Suzuki Tour car in Crime No.276 of 2024 on the file of the respondent.

For Petitioner : Mr.A.Naresh 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 10.03.2025 passed in Cr.M.P.No.428 of 2025 by the learned Principal Special Judge for NDPS Act Cases, Madurai, rejecting the petitioner's request for interim custody of his vehicle, namely, Maruti Suzuki Tour car bearing Registration No. TN-59-CL-7012, seized in Crime No.276 of 2024 for offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "NDPS Act").

Case of the Prosecution:

2. According to the prosecution, on 12.08.2024, the respondent police were conducting a routine vehicle inspection on Periyakulam-Batlagundu Road at Katpadi check-post. At about the relevant time, a car bearing Registration No. TN-59-CL-7012 approached the checkpost. The vehicle was stopped and subjected to the usual inspection. It is alleged that the occupants inside the car suddenly fled from the spot, taking advantage of the situation. On further search, 4.755 kilograms of ganja were recovered from the vehicle. The contraband was seized. Hence, Crime No.276 of 2024 was registered, and the investigation was



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taken up for offences under the NDPS Act.

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3. The vehicle in question was seized as the conveyance used in the commission of the alleged offence and was produced before the jurisdictional Magistrate. The respondent thereafter initiated steps under Section 52-A of the NDPS Act by preparing an inventory and forwarding the vehicle for disposal through the Drug Disposal Committee as per the 2022 Rules.

Case of the petitioner / Vehicle Owner:

4. The petitioner claims to be the registered owner of the said Maruti Suzuki Tour car bearing Registration No. TN-59-CL-7012. He is an engineering graduate, presently employed in a private company, and states that due to a meagre salary and financial stress, he purchased the subject vehicle in 2021 under finance from Shriram Finance Ltd. The Registration Certificate and allied documents stand in his name. The car bears a commercial “T-Board” and is used as a rental vehicle.

5. According to the petitioner, the vehicle is routinely rented out



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to various persons for hire. His own brother, Manikandan, is a driver and is the first accused in this case. On 12.08.2024, the said Manikandan is stated to have borrowed the vehicle on a rental basis for one trip with his “customers”. The petitioner states that only during the night hours on the date of occurrence, he came to know that a case had been registered against his brother and others for transporting ganja and that his car had been seized.

6. He maintains that, he was not present at the scene. He had no knowledge that the vehicle would be used for transporting contraband. He never permitted or connived in such use, and he had purchased the vehicle bona fide for commercial hire and is still repaying the loan.

7. He further submits that the vehicle is lying in the open at the police station, exposed to sun, rain, and natural decay; continued detention will render it useless, while he remains saddled with EMIs and deprived of livelihood.

8. On these premises, he filed Cr.M.P.No.428 of 2025 seeking interim release of the vehicle invoking Section 457 of Cr.P.C., 1973



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(now Sections 497/503 BNSS), relying on **Bishwajit Dey v. State of Assam¹**, **Sainaba v. State of Kerala²** and the subsequent judgment in **Denash v. State of Tamil Nadu³**, wherein the Hon'ble Supreme Court has held that an innocent or bona fide owner cannot be left remediless and that Courts retain power to grant interim custody even in NDPS cases, where circumstances so warrant.

Gist of the impugned order:

9. By order dated 10.03.2025, the learned Principal Special Judge for NDPS Act Cases, Madurai, dismissed the petition. The impugned order, in substance, proceeds on the following lines:

(i) The vehicle seized in Crime No.276 of 2024 has been produced before the Judicial Magistrate, Periyakulam;

(ii) An inventory has been prepared under Section 52-A of the NDPS Act;

(iii) Steps have been taken to hand over the vehicle to the Drug

12025 INSC 32

2 2022 SCC OnLine SC 1784

3 2025 SCC OnLine 2276



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Disposal Committee in terms of the 2022 Rules;

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(iv) In view of the special scheme for disposal under Section 52-A of the NDPS Act read with the 2022 Rules, the Court has no jurisdiction to grant interim custody under Section 457 Cr.P.C., 1973 / Section 497 BNSS, 2023;

(v) Reliance is placed on the view that NDPS being a special law with a stringent regime, vehicles used for transportation of drugs must be swiftly processed for disposal/confiscation; and

(vi) Consequently, the petition for interim custody is held not maintainable and dismissed.

Grounds of revision:

10. The petitioner assails the impugned order broadly on the following grounds:

That the Court below erred in holding that Section 52-A of the NDPS Act and the 2022 Rules oust the powers of criminal Courts under Sections 451 and 457 Cr.P.C., 1973 / Sections 497 and 503 BNSS, 2023. Section 51 of the NDPS Act and Section 5 of the Cr.P.C., 1973 / Section 4 of the BNSS, 2023, preserve the application of general



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procedure except where specifically inconsistent. The Court below failed to consider the binding decisions in ***Sunderbhai Ambalal Desai v. State of Gujarat***⁴, ***Sainaba v. State of Kerala***⁵, ***Bishwajit Dey v. State of Assam***⁶, ***Tarun Kumar Majhi v. State of West Bengal***⁷ and the latest judgment in ***Denash v. State of Tamil Nadu***⁸, wherein it has been held that seized vehicles may be released on interim custody and that the 2022 Rules cannot divest Courts of their jurisdiction.

Submissions:

11. The learned counsel for the petitioner submitted that, the petitioner is the undisputed registered owner, with RC and finance documents standing in his name. The vehicle was lawfully hired for commercial use. The alleged contraband was recovered from persons travelling in the car and not from the petitioner. The investigation has not shown any material suggesting his knowledge or connivance. The NDPS Act nowhere bars the Court from granting interim custody of a

4 (2002) 10 SCC 283

5 2022 SCC OnLine SC 1784

6 2025 INSC 32

7 2025 SCC OnLine SC 2362

8 2025 SCC OnLine 2276



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seized vehicle. Sections 36-C and 51 of the NDPS Act specifically apply Cr.P.C., 1973,/BNSS 2023, to proceedings before NDPS Courts to the extent not inconsistent. Though Section 52-A of the NDPS Act and the 2022 Rules deal with disposal (including auction, destruction, transfer etc.) of seized articles and conveyances. They do not create an exclusive forum for deciding claims of innocent owners nor confer adjudicatory powers on the Drug Disposal Committee to determine confiscation that power lies only with the Special Court under Section 63 of the NDPS Act.

12. The Hon'ble Supreme Court in ***Bishwajit Dey v. State of Assam***⁹ delineated four typical scenarios of seizure from conveyances, and held that in situations where neither the owner nor his agent is implicated, the vehicle should normally be released on appropriate conditions; even where technically an “agent” is an accused, the Courts are required to examine the factual matrix pragmatically and not mechanically.

13. In ***Sainaba v. State of Kerala***¹⁰, the Hon'ble Supreme Court,

⁹ 2025 INSC 32



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relying on **Sunderbhai Ambalal Desai v. State of Gujarat**¹¹, directed release of a vehicle seized in an NDPS case, recognising that prolonged retention in police custody leads only to decay and is against public interest. In **Denash v. State of Tamil Nadu**¹², the Hon'ble Supreme Court has now categorically clarified that the 2022 Rules cannot be read as divesting Special Courts of jurisdiction to grant interim custody under Sections 451 and 457 Cr.P.C., 1973, / 497 and 503 BNSS, 2023, and that Drugs Disposal Committee is an administrative mechanism for disposal, not a substitute for judicial determination of confiscation or owner's rights.

14. The petitioner, being a bona fide owner not chargesheeted, should not be compelled to await chemical analysis and DDC proceedings or left to challenge administrative disposal, when the statute itself envisages judicial protection under Sections 60(3) and 63 of the NDPS Act.

10 2022 SCC OnLine SC 1784

11 (2002) 10 SCC 283

12 2025 SCC OnLine 2276



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15. The learned Additional Public Prosecutor Mr.T.Senthilkumar, categorically contended that the vehicle was seized in connection with an NDPS offence and an inventory has been prepared in terms of Section 52-A of the NDPS Act. The matter has been already forwarded for disposal by the Drug Disposal Committee as per the 2022 Rules. The NDPS Act is a special law with a strict, deterrent scheme; vehicles used for transportation of narcotics are statutorily liable to confiscation under Section 60 of the NDPS Act; if Courts liberally order interim release under general provisions like Section 451/457 CrPC or 497/503 BNSS, the very objective of the NDPS regime would be diluted.

16. Section 51 NDPS Act and Section 5 Cr.P.C., 1973/Section 4 BNSS, 2023, make it clear that where a special procedure is prescribed, the general provisions must yield; after introduction of 2022 Rules, the Drug Disposal Committee is the exclusive authority to decide disposal of seized items including conveyances, and Courts should refrain from interfering.

17. He relied upon ***Union of India v. Mohanlal***¹³, ***State of M.P.***

¹³(2016) 3 SCC 379



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v. Kallo Bai¹⁴, Hira Singh v. Union of India¹⁵ and earlier High Court decisions such as **Nahoorkani v. State of Tamilnadu¹⁶** and **Crl.R.C. (MD) No.212 of 2023**, where it was held that pre-trial disposal is within the domain of Drug Disposal Committee and that the learned Trial Courts ought not to exercise Section 451/457 of Cr.P.C., 1973, powers to release vehicles confiscated for NDPS offence. It was further argued that **Bishwajit Dey v. State of Assam¹⁷** did not specifically consider Section 52-A of the NDPS Act or the 2022 Rules and therefore should be read as confined to its facts; and that post-Rules regime, allowing interim release would run contrary to **Mohanlal case** mandated disposal process.

Point for Consideration:

18. Whether, in respect of a conveyance seized in connection with an offence under the NDPS Act, the Special Court / Magistrate retains jurisdiction under Sections 451 and 457 Cr.P.C., 1973 (now Sections 497 and 503 BNSS, 2023), to grant interim custody to a bona fide owner, notwithstanding Section 52-A of the NDPS Act and the 2022

¹⁴ (2017) 14 SCC 502

¹⁵ 2017 8 SCC 162

¹⁶ Crl. R.C.(MD) 41 of 2019

¹⁷ 2025 INSC 32



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Rules, and if so, whether on the facts of the present case such interim custody ought to be granted.

Analysis:

19. Sections 36-C and 51 of the NDPS Act specifically apply the provisions of the Code of Criminal Procedure, 1973 (and now BNSS) to proceedings under the Act “insofar as they are not inconsistent” with the NDPS Act. Sections 497 and 503 BNSS, 2023 (successors to Sections 451 and 457 Cr.P.C., 1973) empower criminal Courts to make orders for proper custody, sale, disposal or delivery of property produced before them or reported as seized during investigation. The new Section 497 of the BNSS, 2023, introduces a time-bound mechanism: statement of the property to be prepared within 14 days and order the disposal within 30 days. Section 52-A of the NDPS Act, introduced in 1989 and expanded in 2014, provides a special mechanism for pre-trial disposal of seized drugs and, after the amendment, conveyances as well, subject to preparation of inventory, certification by Magistrate, and following rules framed by the Central Government. Sections 60 and 63 of the NDPS Act constitute the substantive and procedural code on confiscation. Section 60(3) of the NDPS Act makes a conveyance liable to confiscation unless the owner



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proves absence of knowledge/connivance and that reasonable precautions were taken. Section 63 of the NDPS Act requires the Court, at conclusion of trial or even where the offender is unknown, to decide confiscation after giving opportunity of hearing to claimants and, in some cases, permits sale of perishable items with proceeds standing in place of the property. Thus, even while a special disposal mechanism exists, confiscation and adjudication of owner's rights are placed squarely in the hands of the Court, not of an administrative body.

20. The 2022 Rules, framed under Section 76 read with Section 52-A of the NDPS Act, briefly set out the following details:

- (i) the officers who shall initiate action for disposal (Rule 17);
- (ii) functions of the Drug Disposal Committee (Rule 20);
- (iii) procedure for examination and certification (Rule 21);
- (iv) power of the Drug Disposal Committee to order disposal up to certain values (Rule 22); and
- (v) modes of disposal, including auction or destruction (Rule 23).

21. These Rules: (i) do not provide any independent forum for



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adjudicating competing property rights or for determining whether a conveyance is liable for confiscation; (ii) do not confer any authority on the Drug Disposal Committee to override Section 60(3) and Section 63 of the NDPS Act safeguards;

22. Assume that confiscation/disposal is to be carried out in accordance with the Act, and only prescribe the administrative procedure once disposal is warranted. As lucidly clarified in **Denash v. State of Tamil Nadu**¹⁸, the Rules are subordinate legislation meant to carry out the purposes of the NDPS Act, and cannot travel beyond or curtail statutory rights of owners or the jurisdiction of Special Courts.

23. The Hon' ble Supreme Court in the case of **Union of India v. Mohanlal**¹⁹ issued directions for prompt disposal of seized narcotics and conveyances to avoid pilferage and over-burdened Malkhanas. This case spurred the Government to strengthen the disposal regime through rules. It did not hold that Courts cannot grant interim custody or that the Drug Disposal Committee is the exclusive authority to determine a vehicle's fate where an owner claims innocence.

¹⁸ 2025 SCC OnLine 2276

¹⁹ (2016) 3 SCC 379



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24. The Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai v. State of Gujarat**²⁰ emphasised that keeping vehicles in police custody for long periods serves no purpose and leads only to decay and that the Magistrates should ordinarily release such vehicles on appropriate conditions.

25. Applying **Sunderbhai Ambalal Desai v. State of Gujarat**²¹ in an NDPS context, the Hon'ble Supreme Court in **Sainaba v. State of Kerala**²² directed the release of a seized vehicle on terms to be fixed by the Special Court, reiterating that Section 451 Cr.P.C., 1973, contains ample power to impose conditions and that there is no utility in parking vehicles in police stations indefinitely.

26. The Hon'ble Supreme Court in **Bishwajit Dey v. State of Assam**²³ classified four broad scenarios of seizure from conveyances and held that in scenarios where neither the owner nor his agent is

²⁰ (2002) 10 SCC 283

²¹ (2002) 10 SCC 283

²² 2022 SCC OnLine SC 1784

²³ 2025 INSC 32



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alleged to have knowledge/connivance, interim release should normally be granted on *superdari*, subject to bond and undertaking to produce the vehicle or pay its value if ultimately ordered to be confiscated. The Hon' ble Supreme Court expressly noted that criminal law cannot be applied in a vacuum and that the learned Trial Courts retain discretion based on facts.

27. The Hon' ble Supreme Court in **Tarun Kumar Majhi v. State of West Bengal**²⁴ reaffirmed that confiscation can be ordered only upon conclusion of the trial and after hearing the claimant and where the owner proves lack of knowledge and due precautions, the vehicle is not liable for confiscation.

28. The judgment of the Hon' ble Supreme Court in **Denash v. State of Tamil Nadu**²⁵ squarely meets the argument advanced by the State in the present case. The Hon' ble Supreme Court held, in essence, that the 2022 Rules are supplemental. They cannot override NDPS Act provisions or divest the Special Court of jurisdiction. The Drug Disposal Committee 's role is to effect disposal in accordance with law; it is not

24 2025 SCC OnLine SC 2362
25 2025 SCC OnLine 2276



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an adjudicatory forum under Sections 60 and 63 of the NDPS Act. Sections 451 and 457 Cr.P.C., 1973 / 497 and 503 BNSS, 2023 remain applicable to proceedings before NDPS Courts by virtue of Sections 36-C and 51 of the NDPS Act. A bona fide owner whose vehicle has been misused without his knowledge cannot be compelled to suffer indefinite detention or be relegated only to the Drug Disposal Committee. Interim custody may, and in appropriate cases should, be granted subject to safeguarding the interest of prosecution by bonds and undertakings.

29. The Hon' ble Supreme Court expressly set aside the view of the Hon'ble High Court which had held that after the 2022 Rules, only the Drug Disposal Committee could deal with seized conveyances. This Court is bound by the ratio of **Denash v. State of Tamil Nadu**²⁶ and cannot perpetuate a contrary line of reasoning.

30. Earlier, this Court in **Nahoorkani v. State of Tamilnadu**²⁷ and in **Crl.R.C.(MD) No.212 of 2023**, proceeding on a particular interpretation of **Union of India v. Mohanlal**²⁸ and the then-available Rules, had taken the view that pre-trial disposal including conveyances

²⁶ 2025 SCC OnLine 2276

²⁷ Crl. R.C.(MD) 41 of 2019

²⁸ (2016) 3 SCC 379



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lies exclusively with the Drug Disposal Committee and that Courts should not ordinarily grant interim release under Section 451/457 Cr.P.C., 1973, in NDPS cases.

31. In light of the statutory analysis in ***Denash v. State of Tamil Nadu***²⁹, the reiteration of owner-protection under Sections 60(3) and 63 of the NDPS Act; and the clear pronouncement that the 2022 Rules cannot divest the Court's jurisdiction, those earlier views cannot be treated as laying down the correct position of law for future cases. To the extent they suggest that criminal Courts lack competence to entertain applications for interim custody of the NDPS vehicles, they stand impliedly overruled.

32. Turning to the facts before this Court that the petitioner is the registered owner; the RC and finance documents are stated to stand in his name. The vehicle is a commercial T-Board car, purchased on loan and used for hire. The contraband (4.755 kg of ganja) was allegedly recovered from the occupants of the vehicle; there is nothing before this Court to show that the petitioner has been arrayed as an accused or that the prosecution asserts his knowledge or connivance.

²⁹ 2025 SCC OnLine 2276



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33. The immediate user of the vehicle, accused No.1 Manikandan, is the petitioner's brother and a driver; while that relationship calls for careful scrutiny at the trial, it does not by itself establish owner's complicity. There is no material placed to show that the petitioner was previously involved in NDPS offences or habitually permits illicit use. The vehicle is lying in police custody and, as is judicially noticed in **Sunderbhai Ambalal Desai v. State of Gujarat**³⁰ and **Bishwajit Dey v. State of Assam**³¹, such vehicles are typically stored in the open, exposed to the elements, leading to rapid deterioration and loss of value. The petitioner continues to be liable to the financier and asserts that the vehicle is essential to his livelihood. At this stage, the Court is not called upon to finally decide the issue of confiscation. That determination will fall squarely within Section 63 of the NDPS Act and will have to be made by the Special Court after recording evidence and after giving opportunity of hearing to the petitioner as contemplated by the statute.

34. For the limited purpose of interim custody, the test is whether the petitioner has made out a *prima facie* case of being a bona fide

30 (2002) 10 SCC 283

31 2025 INSC 32



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owner without knowledge or connivance, and whether the interests of prosecution can be secured by appropriate conditions. On the available material, and guided by the approach of the Hon' ble Supreme Court in **Denash v. State of Tamil Nadu**³² and **Bishwajit Dey v. State of Assam**³³, this Court is of the considered view that, keeping the vehicle in the police station will "serve no purpose" other than reducing it to junk; the NDPS Act does not compel such waste; rather, Sections 60(3) and 63 of the NDPS Act positively require a careful balancing of societal interest in deterrence with protection of innocent owners; the 2022 Rules do not bar this Court from granting interim custody.

35. Accordingly, this is a fit case to exercise the power under Section 497 of the BNSS, 2023 (and, where applicable, Section 503 of the BNSS) to order interim release, subject to stringent safeguards.

36. In the result, the order dated 10.03.2025 passed in Cr.M.P.No.428 of 2025 in Crime No.276 of 2024 on the file of the Principal Special Judge for NDPS Act Cases, Madurai, is set aside.

³² 2025 SCC OnLine 2276

³³ 2025 INSC 32



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37. The respondent police are directed to release the vehicle, viz., Maruti Suzuki Tour car bearing Registration No. TN-59-CL-7012, to the petitioner on interim custody on the following conditions:

- (a) the petitioner is directed to deposit a sum of **Rs.25,000/- (Rupees Twenty Five 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 Principal Court for NDPS act cases, Madurai;
- (c) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Principal Court for NDPS act cases, Madurai;
- (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



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alteration in the vehicle;

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(f) the petitioner shall produce the vehicle before the learned Trial Court on 1st Monday of every English calendar month;

38. It is made clear that the above directions are confined to 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.276 of 2024 or on the ultimate issue of confiscation under Sections 60 and 63 of the NDPS Act.

39. Accordingly, the Criminal Revision Case is allowed in the above terms.

27.11.2025

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To

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- 1.The Principal court for NDPS act cases,
Madurai.
- 2.The Inspector of Police,
Devathanapatti Police Station
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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