



CRL RC(MD)No.753 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.08.2025

PRONOUNCED ON : 27.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.753 of 2025

Murugan

... Petitioner

Vs.

State, Rep. by
The Inspector of Police,
Avaniyapuram Police Station
Madurai District.
(Crime No.118 of 2025)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 438 r/w. 442 of BNSS, 2023, to call for the records and set aside the order dated 08.04.2025 made in Cr.M.P.No.659 of 2025, on the file of the learned Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, set aside the same and consequently direct the learned Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, to return the vehicle Pulsar 150 bearing Reg. No.TN-67 CY-7238 (Engine No.DHXCSK32122, Chassis No.MD2A11CX4SCK50983) to the petitioner.

For Petitioner : Mr.M.Manikandan

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



CRL RC(MD)No.753 of 2025

ORDER

Preface:

This Criminal Revision Case calls into question the refusal of interim custody of a two-wheeler (Pulsar motorcycle bearing Regn. No. TN-67-CY-7238) seized in connection with an offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 (“NDPS Act”).

Case of the Prosecution:

2. The respondent registered Crime No.118 of 2025 on the file of Avaniyapuram Police Station for offences under:

Section 8(c) r/w 20(b)(ii)(A) and 20(b)(ii)(B) and 25 of the NDPS Act, and 77 of the Juvenile Justice Act.

3. The prosecution case in brief is that on 25.02.2025, the respondent police intercepted one Karuppasamy (the accused) and allegedly recovered ganja from his possession. At that time, he was riding a Pulsar motorcycle bearing Regn. No. TN-67-CY-7238, with Chassis No. MD2A11CX4SCK50983 and Engine No. DHXCSK32122.



CRL RC(MD)No.753 of 2025

The contraband, along with the vehicle, was seized and Crime No. 118/2025 was registered. The vehicle was treated as a conveyance used for transporting the contraband. The vehicle has since been retained in police custody.

Case of the Petitioner:

4. The petitioner states that he is the registered owner of the Pulsar two-wheeler, and the Registration Certificate stands in his name, he holds all valid documents (RC, insurance, etc.). The vehicle was lent to his friend for work / personal use. His friend later came to be implicated as the accused in this case. The petitioner asserts that he had no knowledge that the vehicle would be used for any unlawful purpose, much less for carrying ganja. He is solely dependent on the vehicle for his day-to-day mobility and personal needs, and its continued detention causes grave hardship. The vehicle is lying idle in the open, exposed to the vagaries of weather, continued detention will only devalue and destroy it.

5. He relies on the recent decision of the Hon'ble Supreme Court



CRL RC(MD)No.753 of 2025

in ***Bishwajit Dey v. State of Assam***¹, wherein it was held that if the vehicle is not released during the trial, it will be wasted in police custody and its value will only diminish. He is ready and willing to furnish substantial sureties, undertakings and any condition that this Court may impose, he undertakes not to transfer, alienate, sell or modify the vehicle and to produce it as and when required. On these grounds, he sought interim custody by way of Cr.M.P.No.1728 of 2025.

Case of the Prosecution Before the Trial Court:

6. The prosecution, through written objections, contended that the accused Karuppasamy was arrested on 25.02.2025 along with the seized Pulsar bike. The vehicle was directly involved in the commission of an NDPS offence and is therefore liable to confiscation to the State. If the vehicle is handed over to the petitioner/owner, he may again involve the vehicle in similar offences or may sell it. Hence, release of the vehicle to the petitioner is strongly opposed.

Gist of the Impugned Order:

7. By order dated 08.05.2025, the learned Additional District

¹ 2025 INSC 32



CRL RC(MD)No.753 of 2025

Judge , Special Court under the Essential Commodities Act, Thanjavur, dismissed Cr.M.P.No.1728 of 2025 and declined interim custody, substantially accepting the prosecution's objection that the vehicle was used in the commission of an NDPS offence, and the possibility of its reuse or sale made interim release undesirable. The court did not advert in detail to the owner's claim of lack of knowledge, the jurisprudence on interim custody, or the balancing of hardship versus prosecutorial interest.

Grounds of Revision:

8. The petitioner challenges the impugned order, broadly contending that the learned trial Judge failed to properly appreciate his status as the registered owner who is not alleged to have possessed the contraband or participated in the offence. The court erred in proceeding on a blanket assumption that, because the vehicle was seized in an NDPS case, it must be retained and ultimately confiscated, without first considering the safeguard in Section 60(3) of the NDPS Act. The order ignores binding precedent of the Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat**², **Sainaba v. State of Kerala**³,

² (2002) 10 SCC 283

³ 2022 SCC OnLine SC 1784



CRL RC(MD)No.753 of 2025

Bishwajit Dey v. State of Assam⁴, Tarun Kumar Majhi v. State of West Bengal⁵ and Denash v. State of Tamil Nadu⁶, which recognise the power and duty of criminal courts to release vehicles on interim custody with appropriate safeguards, even in NDPS matters. The apprehension that the vehicle may again be misused or sold can be adequately addressed by conditions, bonds and undertakings, not by outright denial of custody. The impugned order is therefore contrary to law, suffers from non-application of mind and results in grave hardship and injustice.

Submissions:

9. The learned counsel for the petitioner contended that the NDPS Act is no doubt a special statute, but Sections 36-C and 51 of the NDPS Act expressly apply CrPC/BNSS provisions (including Sections 451, 457 CrPC and 497, 503 BNSS) to NDPS proceedings, save where there is a clear inconsistency. There is no provision in the NDPS Act that bars the Court from granting interim custody of a vehicle. Section 60(3) and Section 63 of the NDPS Act form a careful statutory scheme: they

⁴ 2025 INSC 32

⁵ 2025 SCC OnLine SC 2362

⁶ 2025 SCC OnLine 2276



CRL RC(MD)No.753 of 2025

declare potential liability for confiscation but simultaneously protect the bona fide owner who proves lack of knowledge/connivance and reasonable precautions, and they insist that confiscation can only be ordered by the Court, after hearing such claimant.

10. The Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022 (“2022 Rules”) are subordinate legislation; they regulate disposal but cannot override the NDPS Act or divest courts of jurisdiction, as explicitly held in **Denash v. State of Tamil Nadu**⁷. The Supreme Court in **Bishwajit Dey v. State of Assam**⁸ identified multiple scenarios of seizure from conveyances and held that, where no allegation is made against the owner or his agent regarding knowledge/connivance, interim release should normally be granted on *superdari*, subject to safeguards.

11. The present case fits within that framework that the petitioner lent his two-wheeler to a friend and that there is no material to show his complicity and that he has not been alleged to have participated in the offence, and he is ready to abide by strict conditions. As in **Sainaba**

⁷ 2025 SCC OnLine 2276

⁸ 2025 INSC 32



CRL RC(MD)No.753 of 2025

v. State of Kerala⁹ and Sunderbhai Ambalal Desai v. State of Gujarat¹⁰, keeping a personal vehicle idle in police custody serves no purpose and only results in waste and loss of value, it neither aids investigation nor trial. The trial court, instead of lightly assuming future misuse or sale, ought to have imposed conditions such as bond, sureties, non-alienation, production, and ordered interim release.

12. Per Contra, the learned Additional Public Prosecutor submitted that the vehicle is a conveyance used in the commission of an NDPS offence, as such, under Section 60(3) of the NDPS Act, it is liable for confiscation. The NDPS Act being a special law with a deterrent object, courts must be slow in returning vehicles used in drug offences, as it may embolden traffickers. If the vehicle is returned, there is a risk that the petitioner may again permit its misuse, or may sell or otherwise dispose it, defeating prospective confiscation. Relying on **Union of India v. Mohanlal¹¹** and the 2022 Rules, it was argued that a special regime of disposal exists through the Drug Disposal Committee (DDC), and courts should refrain from interfering with seizure and

⁹ 2022 SCC OnLine SC 1784

¹⁰ (2002) 10 SCC 283

¹¹ (2016) 3 SCC 379



CRL RC(MD)No.753 of 2025

detention. The State therefore opposes interim release and submits that the impugned order requires no interference.

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

Point for Consideration:

14. Whether the learned Special Court was justified in refusing interim custody of the Pulsar motorcycle bearing Regn. No. TN-67-CY-7238 to the petitioner-registered owner solely on the ground that it was used in an NDPS offence and might again be misused or sold, or whether, in light of Sections 60(3) and 63 of the NDPS Act, Sections 497 and 503 BNSS, the 2022 Rules and binding Supreme Court precedent, the petitioner is entitled to interim release on appropriate conditions?

Analysis:

15. Sections 497 and 503 of the BNSS (successors to Sections 451 and 457 CrPC) confer power upon criminal courts to order proper custody of property pending enquiry or trial, to sell or dispose property



CRL RC(MD)No.753 of 2025

subject to speedy or natural decay, to order delivery to any person claiming to be entitled to possession. These are general procedural powers applicable to all criminal proceedings, unless clearly excluded. By virtue of Sections 36-C and 51 of the NDPS Act, the provisions of CrPC/BNSS apply to NDPS cases, except to the extent inconsistent. There is no inconsistency between these provisions and the NDPS Act; instead, they must be read harmoniously with Sections 60 and 63 of the NDPS Act.

16. Section 60(3) of the NDPS Act states that any conveyance used in carrying narcotic drug or psychotropic substance shall be liable to confiscation, unless the owner proves that it was so used without his knowledge or connivance and that he and his agent took reasonable precautions.

17. Section 63 of the NDPS Act mandates the Court, at trial (whether the accused is convicted, acquitted or discharged), shall decide whether the seized article is liable to confiscation. Confiscation cannot be ordered without giving an opportunity of hearing to any person claiming right to the property.



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18. Thus, Confiscation is a judicial measure, not an automatic consequence of seizure. It follows only after evidence and hearing. An innocent owner is not to be deprived of property lightly. Denying interim custody solely on the basis that the vehicle is “liable to confiscation” presumes against the owner without conducting the statutory enquiry.

19. Section 52-A and the 2022 Rules deal with Inventory preparation, Certification by Magistrate, Administrative disposal (auction, destruction, etc.) of contraband and conveyances.

20. In ***Denash v. State of Tamil Nadu***¹², the Supreme Court has categorically held that the 2022 Rules are supplemental, they cannot override the NDPS Act or divest courts of jurisdiction to order interim custody. The Drug Disposal Committee is not a judicial forum to adjudicate ownership or confiscation, it operates after the legal foundation is laid. Therefore, reliance on disposal rules or a general “confiscation to the State” argument cannot justify refusal of interim custody to a bona fide owner.

¹² 2025 SCC OnLine 2276



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21. The jurisprudence may be summarised thus, as per the ***Sunderbhai Ambalal Desai v. State of Gujarat*¹³**, seized vehicles should not be permitted to rust in police stations, courts should normally release them on suitable conditions to protect value and avoid waste. ***Sainaba v. State of Kerala*¹⁴** applied ***Sunderbhai Ambalal Desai v. State of Gujarat*¹⁵** to NDPS proceedings directed release of a vehicle seized under the NDPS Act, recognising that CrPC powers remain available and must be exercised when release serves justice.

22. The law laid down in ***Bishwajit Dey v. State of Assam*¹⁶** classified four scenarios of seizure from conveyances, and held that in scenarios where the owner or his agent is not implicated or alleged to have knowledge/connivance, the vehicle should normally be released on *superdari* and emphasised that keeping vehicles for long periods in police custody serves no useful purpose and only diminishes value.

¹³ (2002) 10 SCC 283

¹⁴ 2022 SCC OnLine SC 1784

¹⁵ Supra 13

¹⁶ 2025 INSC 32



CRL RC(MD)No.753 of 2025

Tarun Kumar Majhi v. State of West Bengal¹⁷ reaffirmed that confiscation can follow only after trial and hearing, a vehicle is not liable to confiscation if the owner proves lack of knowledge and due precautions.

23. In **Denash v. State of Tamil Nadu**¹⁸, the hon'ble Supreme Court explicitly held that the 2022 Rules do not bar courts from exercising powers under Sections 451 and 457 CrPC / 497 and 503 BNSS and confirmed that the power of the Special Court to grant interim custody co-exists with the disposal mechanism under the Rules and clarified that a bona fide owner should not be compelled to wait for disposal by DDC when he has a statutory safeguard under Section 60(3) and a judicial forum under Section 63 of the NDPS Act. These principles squarely apply to the present case.

24. In the present case, the petitioner is the registered owner of the Pulsar motorcycle. The contraband was allegedly seized from Karuppasamy, who was riding the vehicle, there is no material placed before this Court showing that the petitioner was present, or that he

¹⁷ 2025 SCC OnLine SC 2362

¹⁸ 2025 SCC OnLine 2276



CRL RC(MD)/No.753 of 2025

was part of any conspiracy. The petitioner's stand is that he lent the vehicle to his friend and had no knowledge of any illegal use. There is no allegation of previous NDPS cases against the petitioner or habitual misuse of the vehicle.

25. The vehicle is a two-wheeler used for personal mobility, not a specialised contraband-carrying structure. The only substantive objection of the prosecution is a speculative fear that the petitioner “may again use the vehicle for similar crime” or “sell” it concerns that can be fully addressed by conditions of bond, non-alienation and production. In these circumstances, the case falls comfortably within the third/fourth scenario described in ***Bishwajit Dey v. State of Assam***¹⁹, where the owner is not shown to have knowledge or connivance, and the vehicle should therefore ordinarily be released on interim custody, subject to stringent terms.

26. The learned trial Judge, with respect, failed to undertake this balancing exercise and instead treated seizure in an NDPS case as virtually conclusive against interim release. That approach is inconsistent with the statutory framework and binding Supreme Court

¹⁹ 2025 INSC 32



precedent.

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27. Prosecution interest can be secured by ensuring the vehicle's identity is fully documented (photographs, chassis/engine number, seizure mahazar), bonds and sureties ensuring production or monetary value, non-alienation conditions. Owner's interest is in preventing needless deterioration and value erosion, using his own property for legitimate purposes, avoiding disproportionate hardship when he is not even alleged to have been in conscious possession. On a fair balance, and consistent with ***Denash v. State of Tamil Nadu***²⁰ and ***Bishwajit Dey v. State of Assam***²¹, interim custody ought to have been granted.

28. In the given circumstances, the impugned order dated 08.05.2025 suffers from misdirection regarding the scope of the Court's power under Sections 497 and 503 BNSS, failure to apply Sections 60(3) and 63 of the NDPS Act, disregard of controlling Supreme Court authority, and resultant injustice to a *prima facie* bona fide owner. Interference in revision is therefore warranted.

29. In the result, the Criminal Revision Case is allowed. The order

20 2025 SCC OnLine 2276

21 2025 INSC 32



CRL RC(MD)No.753 of 2025

dated 08.05.2025 passed in Cr.M.P.No.1728 of 2025 by the learned Additional District Judge / Presiding Officer, Special Court under the Essential Commodities Act, Thanjavur, is set aside.

30. The respondent is directed to release the Pulsar motorcycle bearing Registration No. TN-67-CY-7238 (Chassis No. MD2A11CX4SCK50983, Engine No. DHXCSK32122) to the petitioner on interim custody, subject to the following conditions:

- (a) the petitioner is directed to deposit a sum of **Rs.10,000/- (Rupees Ten 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.10,000/- (Rupees Ten Thousand only)**, with two sureties for a likesum to the satisfaction of the learned Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai;
- (c) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Principal Special Court for



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CRL RC(MD)No.753 of 2025

Narcotic Drugs and Psychotropic Substances 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 alteration in the vehicle;
- (f) the petitioner shall produce the vehicle before the learned Trial Court on 1st Monday of every English calendar month.

31. It is made clear that this order deals only with interim custody of the vehicle and does not express any opinion on the merits of the prosecution in Crime No.118 of 2025 or on the ultimate liability for confiscation under Sections 60 and 63 of the NDPS Act.

32. The Criminal Revision Petition is allowed in the above terms.

27.11.2025

NCC : Yes / No
Index : Yes / No

17/19



CRL RC(MD)No.753 of 2025

Internet : Yes
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To

- 1.The Principal Special Court for
Narcotic Drugs and Psychotropic
Substances Act Cases, Madurai
- 2.The Inspector of Police,
Avaniyapuram Police Station
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CRL RC(MD)No.753 of 2025

L.VICTORIA GOWRI, J.,

Sml

CRL RC(MD)No.753 of 2025

27.11.2025