



CRL RC(MD)No.776 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.776 of 2025

S.John Beter @ John Beter

... Petitioner

Vs.

State of Tamil Nadu,
Rep. by The Inspector of Police,
Kannivadi Police Station
Dindigul District.
(Crime No.134 of 2025)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 438 r/w. 442 of BNSS, 2023, to call for the records relating to in CrI.M.P.No.1359 of 2025 on the file of the of the learned Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, dated 17.06.2025 and to set aside the same and further direct the of the learned Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, to grant interim custody of vehicle Bajaj KTM 200 bearing Registration No.TN 57 BR 9907 to the Petitioner.

For Petitioner : Mr.J.Yogeswaran

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



CRL RC(MD)No.776 of 2025

ORDER

WEB COPY

Preface:

This Criminal Revision Case calls in question the correctness of the order dated 17.06.2025 in Crl.M.P.No.1359 of 2025 passed by the learned Special Judge for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, refusing interim custody of a Bajaj KTM 200 motorcycle bearing Registration No. TN-57-BR-9907, seized in Crime No.134 of 2025 registered for offences under Sections 8(c) r/w 20(b)(ii) (B) and 25 of the NDPS Act, 1985.

The version of prosecution, in essence, as could be gathered from the case papers and the objection filed to Crl.M.P.No.1359 of 2025, is as follows:

2. The respondent police, Kannivadi Police Station, registered Crime No.134 of 2025 for offences under Sections 8(c), 20(b)(ii)(B) and 25 of the NDPS Act. It is alleged that the petitioner and others, using Bajaj KTM 200 motorcycle bearing Reg. No. TN-57-BR-9907, were selling ganja weighing about 4.100 kilograms.



CRL RC(MD)No.776 of 2025

3. The motorcycle was allegedly used as the conveyance for carrying the contraband and for transporting it to buyers. The police intercepted the vehicle, seized 4.100 kg of ganja, and took the vehicle into custody. The case is stated to be under investigation; final report has not yet been filed. The prosecution asserts that if the motorcycle is returned to the petitioner, there is a real apprehension that he may not produce the vehicle in future for the purposes of evidence and possible confiscation and that the release of the vehicle at this stage would prejudice the ongoing investigation. On these grounds, the respondent strongly opposed interim release of the vehicle.

Case of the Petitioner:

4. The case of the petitioner, as pleaded in CrI.M.P.No.1359 of 2025 and articulated in this revision, is: the petitioner is the registered owner of the vehicle bearing Reg. No. TN-57-BR-9907 Bajaj KTM 200, valued at about Rs.1,50,000/-. He states that he had borrowed / given the vehicle to a friend, who is also an accused in this case, and that the vehicle is now seized in connection with Crime No.134 of 2025. He admits that he has been arrayed as an accused, but asserts that the matter is still at the investigation stage and that his guilt is yet to be established.



CRL RC(MD)No.776 of 2025

5. The motorcycle is presently kept in the police station, exposed to sun, rain, and other natural elements, and is thus subject to rapid natural decay. If continued to be kept in open custody, the vehicle will be rendered useless and its value will be significantly diminished. The petitioner contends that as the owner, he is entitled to seek interim custody of the vehicle, particularly when the same can be produced as required and the interests of prosecution can be safeguarded by imposing conditions. He, therefore, prayed for interim release of the vehicle to his custody, contending that prolonged detention serves no useful purpose and causes him substantial financial loss.

Gist of the Impugned Order:

6. By order dated 17.06.2025 in CrI.M.P.No.1359 of 2025, the learned Special Judge for NDPS Act Cases, Madurai, dismissed the petitioner's application for interim custody. The gist of the reasoning is: The motorcycle bearing Reg. No. TN-57-BR-9907 is involved in Crime No.134 of 2025 relating to sale of ganja and is a material object in the NDPS case. The petitioner himself is an accused in the said crime. Given the nature of the allegation – that the vehicle was used for selling ganja – it would not be appropriate to hand over the vehicle to him during pendency of investigation. The investigation is still pending; if



CRL RC(MD)No.776 of 2025

the vehicle is returned to the petitioner, there is no guarantee that he would produce it as and when required by the Court. In view of the seriousness of the offence and the ongoing investigation, the Court found it unsafe to grant interim custody and, therefore, dismissed the petition.

Grounds of Revision:

7. The petitioner challenges the impugned order on the following grounds: The learned Special Court erred in assuming that, merely because the petitioner is an accused, he is automatically disentitled to interim custody of the vehicle. There is no such absolute bar in the NDPS Act. The learned Trial Judge failed to consider the statutory scheme of the NDPS Act, particularly Sections 36-C, 51, 60(3) and 63, and the general powers under Sections 451 and 457 Cr.P.C., 1973, / Sections 497 and 503 BNSS relating to interim custody of seized property. The learned Trial Court did not advert to or apply the law laid down by the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai v. State of Gujarat***¹, ***Bishwajit Dey v. State of Assam***², and ***Denash v.***

1 (2002) 10 SCC 283

2 2025 INSC 32



CRL RC(MD)No.776 of 2025

State of Tamil Nadu³, which recognises the power of criminal Courts to grant interim custody of vehicles to their owners, even in cases involving serious offences, subject to safeguards.

8. The impugned order is cryptic and does not weigh the economic hardship and potential irreparable loss to the petitioner if the vehicle remains in open custody for long. The learned Trial Judge has, in effect, treated seizure as if it leads automatically to continued detention till the conclusion of trial, overlooking that confiscation is a judicial act to be decided under Section 63 of the NDPS Act after recording evidence and hearing the claimant. On these grounds, the petitioner seeks to set aside the impugned order and to obtain interim custody of the motorcycle.

Submissions:

9. Mr. J. Yogeswaran, learned counsel for the petitioner, contended that the petitioner is the indisputable registered owner of the motorcycle. Ownership is not in dispute; the issue is one of interim custody. The mere fact that the petitioner has been arrayed as an accused does not create a statutory disqualification from seeking
3 2025 SCC OnLine 2276



CRL RC(MD)No.776 of 2025

interim custody. Guilt is yet to be adjudicated. Under Section 36-C NDPS Act, proceedings before the Special Court are governed by the Code of Criminal Procedure (now BNSS), except where expressly inconsistent. Section 51 of the NDPS Act likewise preserves the application of the Code to warrants, arrests, searches and seizures, unless inconsistent.

10. Sections 451 and 457 Cr.P.C., 1973, / Sections 497 and 503 BNSS confer wide powers on criminal courts to order proper custody, interim delivery or disposal of seized property pending inquiry or trial. There is no express inconsistency between those provisions and the NDPS Act. Confiscation of a conveyance is governed by Section 60(3) and the procedure in Section 63 of the NDPS Act, which require a judicial determination after giving the owner or claimant an opportunity of being heard. Until that stage, the vehicle is only seized property, not yet finally confiscated.

11. The learned counsel placed reliance on ***Sunderbhai Ambalal Desai v. State of Gujarat***⁴, wherein the Supreme Court directed that seized vehicles should not be allowed to remain in police custody

⁴ (2002) 10 SCC 283



CRL RC(MD)No.776 of 2025

indefinitely and should be released to the owner on suitable conditions, as prolonged detention serves no purpose and leads to decay. He heavily relied on ***Bishwajit Dey v. State of Assam***⁵, where the Supreme Court classified various scenarios of seizure from conveyances and held that even when the owner is facing allegations, courts must take a practical and balanced view and ordinarily release vehicles on superdari, subject to stringent conditions, to avoid needless destruction of valuable property.

12. He further invoked ***Denash v. State of Tamil Nadu***⁶, in which the Supreme Court underscored that administrative mechanisms for disposal cannot divest courts of jurisdiction to consider interim custody applications, and cannot override the statutory safeguards of Sections 60(3) and 63 of the NDPS Act or the general powers under the Code. The learned counsel submitted that the petitioner is prepared to furnish substantial bond, sureties and an affidavit of undertaking, and to produce the vehicle whenever required. The prosecution's interests can thus be protected without allowing the motorcycle to rot in police custody.

⁵ 2025 INSC 32

⁶ 2025 SCC OnLine 2276



CRL RC(MD)No.776 of 2025

13. Per contra, Mr. T. Senthil Kumar, learned Additional Public Prosecutor, made the following submissions: The offence in Crime No. 134 of 2025 relates to sale of 4.100 kg of ganja; the vehicle was allegedly used as the very instrumentality of the illegal trade. The seriousness of the accusation cannot be diluted. The petitioner is not an uninvolved owner; he himself has been arrayed as an accused, and the investigation is still in progress. Granting interim custody to an accused may impede investigation or availability of property for future orders. There is a real apprehension that, if the motorcycle is handed over to the petitioner at this stage, he may dispose of it, alter it, or fail to produce it for trial and possible confiscation. In NDPS matters, Courts are expected to adopt a strict and cautious approach, given the societal impact of drug offences. On these premises, the learned Additional Public Prosecutor supported the impugned order and contended that no interference is warranted.

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

Point for Consideration:

15. In the light of the above, the key point for consideration is,



CRL RC(MD)No.776 of 2025

Whether, despite the petitioner being an accused in Crime No.134 of 2025, the Special Court retains jurisdiction under Sections 451 and 457 Cr.P.C., 1973, / Sections 497 and 503 BNSS, read with Sections 36-C and 51 NDPS Act, to grant interim custody of the seized motorcycle to him; and if so, whether in the facts of this case, such jurisdiction ought to have been exercised, in the light of 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 and the safeguards in Sections 60(3) and 63 of the NDPS Act.

Analysis:

16. The NDPS Act is a special law, but it is not a self-contained procedural code displacing all aspects of the general criminal procedure. Section 36-C of the NDPS Act expressly provides that the provisions of the Cr.P.C., 1973, apply to proceedings before the Special Court, insofar as they are not inconsistent with the provisions of the Act. Section 51 of the NDPS Act similarly makes the provisions of the Cr.P.C., 1973, applicable to warrants, arrests, searches and seizures

⁷ (2002) 10 SCC 283

⁸ 2025 INSC 32

⁹ 2025 SCC OnLine 2276



CRL RC(MD)No.776 of 2025

under the Act, again subject to the test of non-inconsistency.

WEB COPY

17. The general powers of criminal courts regarding property are found in: Section 451 Cr.P.C., 1973, / Section 497 BNSS – dealing with custody and disposal of property pending trial, and Section 457 Cr.P.C., 1973, / Section 503 BNSS – dealing with property seized by the police and reported to a Magistrate, empowering the Court to deliver such property to the person entitled to possession or otherwise to make such order as it thinks fit.

18. The scheme shows that confiscation is a final judicial determination, not an automatic consequence of seizure. Interim custody of seized property is a matter governed by general criminal procedure, which remains applicable unless expressly barred. There is no provision in the NDPS Act which says that the ownership of a vehicle or the right to seek its interim custody is extinguished by the mere fact that the owner is an accused. The question is one of judicial discretion, to be exercised case-by-case, not of lack of jurisdiction.



CRL RC(MD)No.776 of 2025

19. In **Sunderbhai Ambalal Desai v. State of Gujarat**¹⁰, the Supreme Court held that keeping seized vehicles in police custody for a long period is not desirable. The Court should pass appropriate orders under Section 451 of the Cr.P.C., 1973, for proper custody and release on superdari. Such orders prevent property from being wasted and serve public interest.

20. In **Bishwajit Dey v. State of Assam**¹¹, the Supreme Court went further and specifically addressed seizures from conveyances. It classified different scenarios, including when the owner or his agent is implicated or not implicated. It stressed that, even where accusations exist, courts must consider applications for interim custody pragmatically, not mechanically. The focus is on preserving property and avoiding destruction while safeguarding the prosecution's interest. It indicated that in many cases, release with conditions is preferable to indefinite detention of vehicles, as criminal justice cannot be blind to the economic realities and the risk of property deteriorating in yards.

¹⁰ (2002) 10 SCC 283

¹¹ 2025 INSC 32



CRL RC(MD)No.776 of 2025

21. In **Denash v. State of Tamil Nadu**¹², the Supreme Court examined the relationship between the NDPS Act, administrative mechanisms for disposal (such as Drug Disposal Committees / disposal rules), and the court's jurisdiction under the Cr.P.C., 1973, / BNSS. The Court clarified that the Administrative rules or committees cannot override statutory rights of owners under Sections 60(3) and 63 of the NDPS Act. They cannot divest the criminal court of its jurisdiction under Sections 451 / 457 Cr.P.C., 1973, (now 497 / 503 BNSS) to consider interim custody applications. A bona fide owner or claimant, even in NDPS proceedings, is entitled to seek interim custody, and the court must examine the request on merits, imposing such conditions as may be necessary to secure the interests of justice.

22. These decisions, particularly **Bishwajit Dey v. State of Assam**¹³ and **Denash v. State of Tamil Nadu**¹⁴, underscore that the stringency of the NDPS Act does *not* translate into a blanket prohibition against releasing vehicles on interim custody. Instead, the Court must balance the gravity of the allegation and the stage of the case, the

¹² 2025 SCC OnLine 2276

¹³ 2025 INSC 32

¹⁴ 2025 SCC OnLine 2276



CRL RC(MD)No.776 of 2025

claimant's position (owner / accused / third party), the risk of non-production, and the harm caused by prolonged detention of the vehicle.

23. The fact that the petitioner is an accused is undoubtedly a relevant circumstance, but it is not a jurisdictional bar. It calls for stricter scrutiny and more stringent conditions, not for outright refusal without analysis. If being an accused automatically barred an owner from interim custody, then in a large class of cases where vehicles are seized from the accused, the property would inevitably languish in open custody for years, which is precisely what the Supreme Court has repeatedly decried. The correct approach is to recognise that the petitioner's status as accused increases the risk of non-production or misuse, to offset that risk by requiring a higher bond, solvent sureties, undertakings and monitoring, rather than by blindly refusing interim custody.

24. Applying the above principles: The petitioner is the registered owner of the Bajaj KTM 200 motorcycle. Its value is about Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only), not an inconsequential asset. The vehicle is presently kept in police custody, exposed to natural elements, which will, over time, significantly reduce



CRL RC(MD)No.776 of 2025

its value and road worthiness. The case is at the investigation stage; final report is yet to be filed. No confiscation proceedings under Section 63 of the NDPS Act have yet commenced, nor has any finding been recorded under Section 60(3) of the NDPS Act. The petitioner's status as an accused is a serious factor, but it does not automatically disentitle him to interim custody. The risk it creates can be mitigated by appropriate conditions and assurances. The prosecution's concern that the vehicle might not be produced can be adequately addressed by: recording full identification details, insisting on a substantial bond and two solvent sureties, an express undertaking not to alienate or alter the vehicle, and binding the petitioner to produce the vehicle as and when required.

25. In the balance of convenience, allowing the vehicle to decay in the police station is neither necessary for investigation nor consonant with the principles laid down in **Sunderbhai Ambalal Desai v. State of Gujarat**¹⁵, **Bishwajit Dey v. State of Assam**¹⁶ and **Denash v. State of Tamil Nadu**¹⁷. In these circumstances, this Court is of the

¹⁵ (2002) 10 SCC 283

¹⁶ 2025 INSC 32

¹⁷ 2025 SCC OnLine 2276



CRL RC(MD)No.776 of 2025

considered view that the learned Special Court adopted an unduly rigid and restrictive approach, and that the impugned order is unsustainable.

26. In the result, the Criminal Revision Petition is allowed. The order dated 17.06.2025 in CrI.M.P.No.1359 of 2025 on the file of the Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, is set aside.

27. The respondent police are directed to release the Bajaj KTM 200 motorcycle bearing Registration No. TN-57-BR-9907 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);
- (a) 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 Special Court for Narcotic



CRL RC(MD)No.776 of 2025

Drugs and Psychotropic Substances Act Cases, Madurai;

WEB COPY

- (b) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai;
- (c) 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;
- (d) the petitioner shall not alienate and shall not make any alteration in the vehicle;
- (e) the petitioner shall produce the vehicle before the learned Trial Court on Monday of every week of English calendar month;

28. It is made clear that this order relates 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.134 of 2025 or on the ultimate question of confiscation under the NDPS Act, which shall be decided independently by the Trial Court on the basis of evidence.



CRL RC(MD)No.776 of 2025

29. With the above directions, this Criminal Revision Petition is allowed.

27.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

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



WEB COPY



CRL RC(MD)No.776 of 2025

L.VICTORIA GOWRI, J.,

Sml

CRL RC(MD)No.776 of 2025

27.11.2025