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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2025

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Crl.R.C.(MD).No.1081 of 2025

Nagamanickam Duraisamy ... Petitioner/A3

Vs.

State of Tamil Nadu through
The Forest Ranger,
FRO Oddanchatram,
Dindigul.
(WLOR No.9 of 2024) ... Respondent/Complainant

Prayer : Criminal Revision Petition filed under Section 438 and 442 of BNSS, 2023, to call for the records relating to the impugned order dated 21.01.2025 made in Cr.M.P.No.4111 of 2024 on the file of Judicial Magistrate, Oddanchatram, in W.L.O.R.No.9 of 2024 on the file of the Oddanchatram FRO and consequently direct the respondent to return the vehicle “Honda City Car bearing Registration No.TN 14 J 3342” lying in the custody of the respondent herein, to the petitioner till the conclusion of the criminal case.

For Petitioner : M/s.M.Muthu Kavitha
For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor

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ORDER

Heard M/s.M.Muthu Kavitha, learned counsel for revision petitioner and Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor for respondent.

2. The present Criminal Revision Case has been filed to set aside the order of learned Judicial Magistrate, Oddanchatram in Cr.M.P.No.4111 of 2024 dated 21.01.2025, whereby, the petition filed by petitioner under Section 497 of BNSS for interim custody of vehicle viz., Honda City Car bearing Reg.No.TN 14 J 3342, was rejected on the premise that the vehicle was seized under Section 39(1)(d) of the Wild Life (Protection) Act, 1972; that the respondent has strongly objected to its release and that confiscation proceedings have been initiated by the Authorized Officer.

3. Learned counsel for revision petitioner would submit that petitioner is owner of the vehicle viz., Honda City Car bearing Reg.No.TN 14 J 3342. The said vehicle was seized by the respondent and a case was registered in WLOR.No.9 of 2024 for the offences under Section 51(1) r/w 9 of Wild Life Protection Act, 1972 and Section 21(2) r/w 21(d)(h) of Tamil Nadu Forests Act, 1882, alleging that petitioner along with others had shot and consumed Asian palm civet, an animal listed in Serial No.50 of Schedule-I of Wildlife Protection

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Act. Petitioner has filed Cr.M.P.No.4111 of 2024 before learned Judicial Magistrate, Oddanchatram to grant interim custody of the said vehicle and the said petition was dismissed by the court below vide impugned order dated 21.01.2025 for the reasons stated supra. Hence, this Criminal Revision Case has been filed.

4. Learned counsel for petitioner would further submit that petitioner is the owner of the vehicle and he would abide by any conditions that may be imposed by this Court. In support thereof, he produced the copy of Registration Certificate of said vehicle and the same was perused by Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor for Respondent, who confirmed that Registration Certificate stands in the name of petitioner.

5. Learned Additional Public Prosecutor would submit that the said vehicle may be released subject to conditions and petitioner must co-operate in confiscation proceedings and the same was agreed by learned counsel for Revision Petitioner.

6. Before proceeding further, it may be relevant to refer to provisions of

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Sections 497 and 503 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which reads as follows:-

"**497. Order for custody and disposal of property pending trial in certain cases.-**When any property is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation.- For the purposes of this section," property" includes-

(a) property of any kind or document which is produced before the Court or which is in its custody,

(b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

(2) The Court or the Magistrate shall, within a period of fourteen days from the production of the property referred to in sub-section (1) before it, prepare a statement of such property containing its description in such form and manner as the State Government may, by rules, provide.

(3)The Court or the Magistrate shall cause to be taken the photograph and if necessary, videograph on mobile phone or any electronic media, of the property referred to in sub-section (1).

(4)The statement prepared under sub-section (2) and the photograph or the videography taken under sub-section (3) shall be used as evidence in any inquiry, trial or other proceeding under the Sanhita.

(5)The Court or the Magistrate shall, within a period of thirty days after the statement has been prepared under sub-section (2) and the photograph or the videography has been taken under sub-section (3), order the disposal, destruction, confiscation or delivery of the

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property in the manner specified hereinafter.

> **503. Procedure by police upon seizure of property.-**(1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.
> (2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation."

7. It may be relevant to refer to judgment of the Hon'ble Supreme Court in the case of ***State of Madhya Pradesh and others Vs. Madhukar Rao, reported in 2008 (14) SCC 624***, wherein, similar provisions of the Wild Life Protection Act are considered and it was held as under:-

> *"22. We have, therefore, no doubt that the provisions of Section 50 of the Act and the amendments made thereunder do not in any way affect the Magistrate's power to make an order of interim release on the vehicle under Section 451 of the Code.*
>
> *23. Learned counsel submitted that Section 39(1)(d) of the Act made the articles seized under Section 50(1)(c)*

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of the Act as government property and, therefore, there was no question of their release. The submission was carefully considered by the Full Bench of the High Court and on an examination of the various provisions of the Act, it was held that the provision of Section 39(1)(d) would come into play only after a court of competent jurisdiction found the accusation and the allegations made against the accused as true and recorded the finding that the seized article was, as a matter of fact, used in the commission of offence. Any attempt to operationalise Section 39(1)(d) of the Act merely on the basis of seizure and accusations / allegations levelled by the departmental authorities would bring it into conflict with the constitutional provisions and would render it unconstitutional and invalid. In our opinion, the High Court has taken a perfectly correct view and the provisions of Section 39(a)(d) cannot be used against exercise of the magisterial power to release the vehicle during pendency of the trial."

8. The Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai vs. State of Gujarat*** reported in ***AIR 2003 SC 638,*** held as under:-

*"**17.** In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done*

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pending hearing of application for return of such vehicles.

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21. *However these powers are to be exercised by the concerned Magistrate. We hope and trust that the concerned Magistrate would take immediate action for seeing that powers under Section 451 Cr.P.C. Are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This Object can also be achieved if there is proper supervision by the Registry of the concerned High Court in seeing that the rules framed by the High Court with regard to such articles are implemented properly.*"

9. It may also be relevant to note that mere pendency of confiscation proceedings before the Collector is no bar to release the vehicle.[1] The same view was taken by the Allahabad High Court that pendency of confiscation proceedings shall not operate as bar against the release of vehicle seized under Section 60 of Excise Act[2].

10. Keeping in view the law laid down by the Supreme Court and the documents/facts which would *prima facie* show that Revision Petitioner is the owner of seized vehicle, this Court takes judicial notice that if vehicle in the present case is allowed to be kept in the custody and in open yard, it will be exposed to vagaries of weather, resulting in diminishing its value and may in course of time be reduced to scrap.

1.**Jai Prakash Vs. State of U.P., 1992 AWC 1744**

2.**Kamaljeet Singh Vs. State of U.P., 1986 U.P. Cri. Ruling 50 (Alld)**

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11. In view thereof, impugned order dated 21.01.2025 passed by Judicial Magistrate, Oddanchatram in Cr.MP.No. 4111 of 2024, is set aside and the seized vehicle viz., Honda City Car bearing Reg.No.TN 14 J 3342, is directed to be released to petitioner subject to the following conditions:

(i) Petitioner shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Oddanchatram.

(ii) Vehicle shall be released after preparing a video and still photographs of the vehicle and after obtaining all information/documents necessary for identification of the vehicle.

(iii) Petitioner shall not sell or part with the ownership of the vehicle till conclusion of the trial and shall furnish an undertaking to the trial court that he shall surrender the vehicle within one week of being so directed.

(iv) Petitioner shall give an undertaking before respondent/authority concerned stating that he will not use the vehicle in question for any illegal activities in future and shall produce the same as and when required by respondent Police and also the trial Court, failing which the respondent/trial Court is/are at liberty to confiscate the vehicle.

(v) Petitioner undertakes to co-operate in confiscation proceedings, if

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any, initiated/to be initiated.

(vi) Petitioner is also directed to participate in the enquiry to be conducted by the respondent Police.

(vii) Petitioner shall surrender the original R.C. Book before Judicial Magistrate, Oddanchatram.

(viii) Petition relating to return of R.C. Book for any purpose in the future may be filed before Judicial Magistrate, Oddanchatram, who may consider the same on merits, though this order has been passed by the High Court.

12. This Criminal Revision Case is disposed of in the above terms.

19.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To
1.The Judicial Magistrate,
Oddanchatram.

2.The Forest Ranger,
FRO Oddanchatram,
Dindigul.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court.

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MOHAMMED SHAFFIQ, J.

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